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Respondent.

Docket 79036 Document 2020-19221

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CHRISTOPHER SENA
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JUSTICE COURT
LAS VEGAS, NEVADA
BY AMC
DEPUTY

SUPP

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JUSTICE COURT, LAS VEGAS TOWNSHIP
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

CHRISTOPHER SENA,
#0779849

Defendant.

Case No. 14F14785X

Dept No. 3

**STATE'S SUPPLEMENTAL MEMORANDUM POINTS AND AUTHORITIES
IN RESPONSE TO DEFENDANT'S MEMORANDUM OF POINTS AND
AUTHORITIES OPPOSING BINDER AFTER
PRELIMINARY HEARING**

DATE OF HEARING: DECEMBER 14, 2015

TIME OF HEARING: 9:00 A.M.

COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, District Attorney, through JAMES R. SWEETIN, Chief Deputy District Attorney and MARY KAY HOLTHUS, Chief Deputy District Attorney, and files this State's Supplemental Memorandum of Points and Authorities In Response to Defendant's Memorandum of Points and Authorities Opposing Bindover after Preliminary Hearing.

This Supplemental Memorandum is made and based upon all the papers and pleadings on file herein, the attached points and authorities in support hereof, and oral argument at the time of hearing, if deemed necessary by this Honorable Court.

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MISF
Miscellaneous Filing
5874731



1 **POINTS AND AUTHORITIES**

2 **STATEMENT OF FACTS**

3 Defendant, CHRISTOPHER SENA, is charged by way of State's Proposed Third
4 Amended Criminal Complaint with the crimes of CONSPIRACY TO COMMIT SEXUAL
5 ASSAULT (Category B Felony - NRS 200.364, 200.366, 199.480), SEXUAL ASSAULT
6 WITH A MINOR UNDER FOURTEEN YEARS OF AGE (Category A Felony - NRS
7 200.364, 200.366), LEWDNESS WITH A CHILD UNDER THE AGE OF 14 (Category A
8 Felony - NRS 201.230), SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN
9 YEARS OF AGE (Category A Felony - NRS 200.364, 200.), INCEST (Category A Felony -
10 NRS 201.180), OPEN OR GROSS LEWDNESS (Category D Felony - NRS 201.210),
11 SEXUAL ASSAULT (Category A Felony - NRS 200.364, 200.366), PREVENTING OR
12 DISSUADING WITNESS OR VICTIM FROM REPORTING CRIME OR
13 COMMENCING PROSECUTION (Category D Felony - NRS 199.305), CHILD ABUSE
14 AND NEGLECT, SEXUAL ABUSE OR EXPLOITATION (Category A Felony - NRS
15 200.508(1)), POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL
16 CONDUCT OF A CHILD (Category B Felony - NRS 200.700, 200.730), USE OF MINOR
17 IN PRODUCING PORNOGRAPHY (Category A Felony - NRS 200.700, 200.710.1,
18 200.750) and USE OF MINOR UNDER THE AGE OF 14 IN PRODUCING
19 PORNOGRAPHY (Category A Felony - NRS 200.700, 200.710.1, 200.750). The Co-
20 Defendant's in this case are DEBORAH SENA and TERRIE SENA. The crimes occurred on
21 or between May 22, 2001 and June 30, 2014. The victims are A.S., T.S., B.S., R.S., E.C.,
22 I.G., T.G., and M.C.

23 A preliminary hearing commenced in this matter on August 27, 2015 and was
24 concluded after four separate days of testimony on September 18, 2015. At the conclusion of
25 the preliminary hearing the Court requested bindover briefing from the parties.

26 **The Preliminary Hearing Testimony of Terrie Sena Relevant to Bindover**

27 On August 27, 2015, Terri Sena testified that she was familiar with Defendant
28 because he is her ex-husband and they were married from September 1990 to August 1997.

1 Terrie Sena testified that she was familiar with the residence located at 6012 Yellowstone
2 Avenue, Las Vegas, Clark County, Nevada, in that she lived there for fifteen (15) years,
3 from 1998 through 2013; and, from January 2014 until June 2014. PHT, Vol. I, pp. 13-14.
4 Terrie Sena testified that over the period of time that she lived at the residence, she lived
5 there with Defendant and his wife, Deborah Sena, Terrie's biological daughter with
6 Defendant, A.S., Terrie's biological son with Defendant, T.S., Terrie's step-son, B.S., who is
7 the biological son of Defendant and Deborah Sena; and, R.S., Terrie Sena's biological son
8 with another man. PHT, Vol. I, pp. 14-16. While living at the residence, Terrie's younger
9 sister, M.C., and her niece, M.C.'s daughter, E.C., occasionally visited her at the
10 Yellowstone address. Terrie Sena testified that her other sister, K.G., also had occasion to
11 visit the residence. PHT, Vol I., pp. 17-18.

12 Terrie Sena testified that she had been charged with things that happened at the
13 Yellowstone address. Terrie Sena testified that those charges were resolved when she agreed
14 to plead guilty to one count of sexual assault; and, agreed to a sentence of ten years to life in
15 prison, as well as to testify truthfully in the court proceeding. PHT, Vol. I, pp. 18-20. Terrie
16 Sena testified that she was, in fact, sentenced to 10 years to life in prison. PHT, Vol. I, p. 21.

17 Terrie Sena testified that while she was living at the Yellowstone residence, she
18 became aware that sexual acts were being committed. Terrie Sena testified that when her
19 sister, M.C., would visit from time to time, when M.C. was 15 and 16 years of age. During
20 that time, naked pictures of M.C. were taken by Defendant. PHT, Vol. I, p. 22. Terrie
21 observed State's proposed Exhibits 13-22 and recognized them as photos of her and M.C.,
22 naked together, with most of them being photos of M.C. PHT, Vol I, pp. 23-24. Terrie
23 testified that some of the photos were taken in the office of her house, while others were
24 taken in M.C.'s bedroom, at her parent's house, located at 2012 Tonopah, North Las Vegas,
25 Clark County, Nevada. PHT, Vol. I, p. 24. Terrie Sena testified that Defendant took the
26 photographs of her and M.C. PHT, Vol. I, p. 27.

27 Terrie testified that her niece, T.G., also came to the residence to visit, when T.G. was
28 sixteen years of age. Terrie testified that T.G. had come over to have her hair dyed. Terrie

1 Sena further testified that she dyed T.G.'s hair. After washing T.G.'s hair, T.G. went to take
2 a shower and Defendant filmed T.G. taking a shower. Defendant would get on a step stool
3 and hold the camcorder into the bathroom where the shower was. Terrie Sena testified that
4 while Defendant was recording T.G. in the shower, T.G. would have not been able to see
5 him. **(COUNTS 118 AND 119)** PHT, Vol. I, pp. 28-29. Terrie Sena testified that she was
6 giving Defendant oral sex while Defendant was filming T.G. in the shower. Terrie Sena
7 viewed State's proposed Exhibits "5", "8", and "9", and indicated that they were still photos
8 of the video that Defendant made of T.G. in the shower. PHT, Vol. I, p. 30.

9 Terrie Sena testified that her niece, E.C., also came to the residence to visit. Terrie
10 testified that when E.C. visited she had gotten lice at school. All of the kids' hair had to be
11 washed as a result and Terrie Sena took E.C. to the bathroom in the office area to wash her
12 hair. E.C. took a shower and while that occurred, Defendant got the camcorder and recorded
13 E.C. taking a shower, while standing on stool with the camera focused down. **(COUNTS**
14 **115 AND 116)**. Terrie Sena viewed State's proposed Exhibit "6" and identified it as a
15 picture from the video that Defendant took of E.C. taking a shower. PHT, Vol. I, pp. 30-32

16 Terrie Sena testified that she also observed filming of R.S. Defendant told Terrie Sena
17 to go and get R.S. from the front of the house and bring him to the office. When Terrie Sena
18 got back to the office with R.S., she noticed the red light blinking on the computer.
19 Defendant had her unbuckle R.S.'s pants and take them off, before Terrie Sena gave R.S.
20 oral sex. While Terrie Sena was performing oral sex on R.S., Defendant was sitting at his
21 computer masturbating. Defendant then approached Terrie Sena and had her perform oral
22 sex on him. After Terrie Sena performed oral sex on Defendant, he instructed her to remove
23 the rest of R.S.'s clothes and had R.S. remove Terrie Sena's top off, at which time he
24 instructed R.S. to put his penis in Terrie Sena's vaginal opening. PHT, Vol. I, pp. 33-35.

25 Terrie Sena testified that she had sexual contact two other times in the presence of
26 Defendant. One in the master bedroom and a second incident in the office. During the
27 incident in the master bedroom of the residence Defendant had Terrie Sena lay on the bed
28 with R.S., undress R.S. and then undress herself. Terrie Sena got on top of R.S. so that his

1 penis penetrated her vaginal opening. Defendant got behind Terrie Sena and engaged in
2 having anal sex with her. PHT, Vol. I, pp. 35-36. Terrie Sena viewed State's proposed
3 Exhibit "7" and indicated that it was a picture of the master bedroom with R.S. laying on the
4 bed while Terrie Sena is getting undressed beside him. At the time the three incidents
5 occurred, R.S. was 14 years of age. PHT, Vol. I, p. 38. Terrie Sena testified that the first
6 incident that occurred in the office happened sometime during the fall of 2012. The incident
7 in the bedroom occurred when R.S. was a freshman in high school and 14 years of age.
8 PHT, Vol. I, p. 41-42. Terrie Sena testified that R.S. was born on June 14, 1988 and that he
9 was 14 years of age in 2012. Terrie Sena stated that the incident in the office and the one in
10 the bedroom occurred over a three week period of time, from what she recollected. PHT.
11 Vol. I, pp. 42-43.

12 The third incident occurred in the office. Defendant had Terrie Sena bring R.S. into
13 the office, un-belt R.S.'s pants, and place his penis in her mouth. R.S. then placed his penis
14 in Terrie Sena's vagina, while she was laying flat on her back. The red light was on the
15 computer when the incident occurred which indicated that Defendant was filming it. The
16 last incident occurred in 2014, just before Terrie Sena left the residence. PHT, Vol. I, pp. 44-
17 45.

18 Besides the sexual contact she had with R.S., Terrie Sena also had sexual contact with
19 B.S. Terrie Sena described an incident where she brought B.S. into the office, from the
20 house, and performed oral sex on him. Terrie Sena removed B.S.'s clothes, as well as her
21 own, at which time Defendant told B.S. to touch Terrie Sena's breast and to insert his penis
22 into her vagina as she lay flat on her back. That incident occurred in December 2012. A
23 second incident occurred a month later, in January 2013. During that incident, Defendant
24 had B.S. touch Terrie's breasts with his hands. Terrie put B.S.'s penis in her mouth, and B.S.
25 inserted his penis into Terrie's vagina, while she lay flat on her back, which was recorded by
26 the Defendant. **(COUNTS 79 – 85)** PHT, Vol. I, pp. 45-48.

27 Terrie Sena described an incident that occurred with A.S., in the living room of the
28 house. Terrie Sena was in the living room with Defendant and A.S. Defendant had A.S. lean

1 over the ottoman and Defendant penetrated A.S.'s anus with his penis (**COUNT 52**), while
2 A.S. was touching Terrie Sena's breasts. PHT, Vol. I, pp. 48-49. A.S. was 17 years of age
3 and a senior in High School when the incident occurred. PHT, Vol. I, p. 52.

4 Terrie Sena testified that the first time something sexual happened in the household
5 with R.S. he was five years of age. During that incident, Defendant had Terrie Sena and
6 Deborah Sena bring R.S. and B.S. into the master bedroom. Defendant had Terrie Sena
7 undress B.S. and had Deborah Sena undress R.S., at which time Terrie Sena performed
8 fellatio on B.S. and Deborah Sena performed fellatio on R.S. Defendant was standing on the
9 side of the bed when the incident occurred. Terrie Sena was not aware of whether that
10 incident was recorded or not. PHT, Vol. I, pp. 52-53.

11 **The Preliminary Hearing Testimony of M.C. Relevant to Bindover**

12 On August 27, 2015, M.C. testified that she has four sisters and one brother. M.C.
13 testified that her brother's name is Jerry Clark and that he is older than her. M.C. testified
14 that she was 34 years of age and her birthday is May 16, 1981. M.C. testified that she has
15 three sisters, but she is the baby of the family. M.C. testified that the next oldest sister is
16 Terrie Sena whose date of birth is October 26, 1970; then, Kimberly Gresham, whose date of
17 birth is April 29, 1964; then Mary Jo, age 51; and, Cheryl. PHT, Vol. I, pp. 136-137.

18 M.C. testified that she has one child, E.C., age 14, date of birth December 21, 2000.
19 M.C. testified that Terrie Sena has three children, A.S., T.S., and R.S. M.C. testified that
20 Kimberly Gresham has two children, Roy and T.G., age 18. PHT, Vol. I, pp. 138-139. M.C.
21 testified that Defendant was married to her sister, Terrie Sena. M.C. testified that she was
22 eight years of age when she first met Defendant and that her sister, Terrie, as eighteen. M.C.
23 testified that she spent time with Defendant and Terrie. PHT, Vol. I, p. 140.

24 M.C. was shown pictures of State's proposed Exhibits 13 through 22 and she
25 identified herself in those pictures. Each of the exhibits were photos of M.C. in the nude
26 and/or in sexually oriented positions. In State's proposed Exhibit "13", M.C. testified that
27 she was 16. M.C. testified that she believed Defendant took that picture as he was the only
28 person in the room with her. PHT, Vol. I, p. 142. M.C. testified that State's proposed

1 Exhibit "14" was taken when she was younger than 16. M.C. testified that she could not
2 remember who took the picture. M.C. testified that she was naked in the picture and that
3 Defendant was the only person who ever took pictures of her naked. **(Count 120)** PHT,
4 Vol. I, pp. 141-144. State's proposed Exhibit "15" was taken the same day as State's
5 proposed Exhibit "14". M.C. was 15 years of age and the picture was also taken by
6 Defendant. **(Count 121)** State's proposed Exhibit "16" was also taken that same day and
7 showed a dildo being put into M.C.'s mouth, which was given to her by Defendant. **(Count**
8 **122)** PHT, Vol. I, pp. 144-145.

9 State's proposed Exhibit "17" was taken when M.C. was 16 years of age. Defendant
10 is in the picture which shows M.C. putting his penis in her mouth, while Terrie Sena took the
11 picture. PHT, Vol. I, p. 145. M.C. testified that State's Exhibit "17" was taken when she
12 was 16 years of age. Terrie Sena is in the picture and appears to be pregnant. M.C. testified
13 that Terrie Sena was pregnant with R.S., who was born on June 14, 1999. M.C. testified the
14 picture was taken before June 1999, by Defendant. PHT, Vol. I, p. 146.

15 M.C. testified that State's proposed Exhibit "19" showed her at the trailer on
16 Yellowstone, when she was approximately 16 years of age. State's proposed Exhibit "20"
17 showed M.C. with her sister, Terrie Sena, when M.C. was 16 years of age. M.C. testified
18 that Defendant took the picture and directed what they were doing in the picture. PHT, Vol.
19 I, p. 147. In State's proposed Exhibit "21" M.C. was 15 year old and a sophomore. The
20 picture was taken at her old residence by Defendant. **(Count 123)** In State's proposed
21 Exhibit "22" M.C. was 15 years of age, holding a dildo up to her anal area, which she was
22 directed to do by Defendant. **(Count 124)** PHT, Vol. I, pp. 148-149. M.C. testified that it
23 was Defendant's idea to take the pictures and it was not something she wanted to do. PHT,
24 Vol. I, p. 150.

25 On re-direct, M.C. clarified that in State's proposed Exhibit's 14, 15, 16, 21, and 22,
26 were taken when she was 15 years of age. PHT, Vol. I, p. 188.

27 **The Preliminary Hearing Testimony of Detective William Karau Relevant to Bindover**

28 Detective Karau testified that he was employed with the Las Vegas Metropolitan

1 Police Department and had been for 15 years in January. Detective Karau testified that he
2 was assigned to the Juvenile Sexual Abuse section for five years and a few months. On
3 September 18, 2014, Detective Karau had occasion to assist in a search warrant at the
4 residence of 6012 Yellowstone, Las Vegas, Clark County, Nevada. Detective Karau's role
5 was to assist in keeping an eye on the residence to see if anyone was coming or going from
6 it. At the time SWAT served the search warrant T.S. and Defendant were present at the
7 residence. PHT, Vol. I, pp. 191-192. During the execution of the search warrant they were
8 looking for electronic storage devices and computers, among other things. PHT, Vol. I, p.
9 193. Those items were located in an office in the back of the property that had a bathroom
10 and a kitchenette in it. The items retrieved were sealed and booked into evidence and taken
11 to the evidence vault. Among the items seized and booked into evidence was No. 25, a Data
12 Travel G3 Thumb drive. PHT, Vol. I, pp. 193-194.

13 **The Preliminary Hearing Testimony of Detective Vince Ramirez Pertinent to Bindover**

14 Vince Ramirez testified that he was employed by the Las Vegas Metropolitan Police
15 Department and had been so employed for 20 years. Detective Ramirez testified that he was
16 currently assigned to Internet Crimes against Children Division and had been since 2000.
17 PHT, Vol. I, pp. 211-212. Detective Ramirez testified that he had occasion to perform a
18 forensic review of certain items seized under LVMPD Event #1409151583. The item was
19 previously seized pursuant to a search warrant executed on Defendant's residence on or
20 about September 18, 2014. PHT, Vol.1, pp. 191-195. Specifically, Detective Ramirez
21 received a Data Traveler G3 thumb drive booked as package 6, item No. 25. Detective
22 Ramirez requested an authorization to have that equipment released to take to the lab for a
23 forensic examination. Detective Ramirez testified that he obtained a warrant in order to
24 perform the forensic examination. PHT, Vol. I, p. 212.

25 Detective Ramirez testified that when an item is received for forensic examination a
26 digital copy is made and that copy is used for testing, so as not to touch any of the original
27 evidence. PHT, Vol. I, p. 214. In the course of the analysis, Detective Ramirez obtained 8
28 videos from the electronic storage disk. Those videos were deemed relevant in this case

1 based upon the individuals in the videos. Detective Ramirez testified that the main subject
2 matters in the videos was Defendant, Terrie Sena, Deborah Sena, T.S., B.S. and R.S., all of
3 which were of a sexual nature, involving fellatio and sexual intercourse. PHT, Vol. I, pp.
4 215-216. The disk of the videos was marked as State's proposed Exhibit "16" and was
5 admitted into evidence. PHT, Vol. I, p. 217.

6 Exhibit 1, video No. 1 (**COUNT 77, 78**) was played in court and showed B.S. and
7 Deborah Sena engaged in sex acts. Defendant is in the video, partially, although not all of
8 his face and only part of his body can be seen. As the video begins, B.S. can be seen laying
9 on his back while Deborah Sena is performing oral sex (fellatio) on him. (**COUNT 71**)
10 Deborah Sena is then shown positioning herself on top of B.S. and she is inserting his penis
11 into her vagina. (**COUNT 72, 73**) Later, after a repositioning shown on the video,
12 Defendant can be seen and then Deborah Sena is shown positioned on her back and B.S. is
13 inserting his penis into her vagina, in a missionary position. PHT, Vol. I, pp. 218-220.
14 (**COUNT 74, 75**) The video then shows B.S. repositioned to the right side of Deborah Sena,
15 while a male individual is having sexual intercourse with her. The video shows Deborah
16 Sena performing oral sex on B.S., (**COUNT 76**) while Christopher Sena is engaging in
17 sexual intercourse with Deborah Sena. PHT, Vol. I, p. 220. A male voice can be heard on the
18 video directing all of the actions that are occurring, which Detective Ramirez believed to be
19 Defendant based upon his body type and the fact that the same voice can be heard instructing
20 on all of the videos. PHT, Vol. I, p. 221. State's proposed Exhibit "2" was a still photograph
21 of B.S. and Deborah Sena from the video that was viewed, and was admitted by the Court.
22 PHT, Vol. I, p. 222.

23 Exhibit 1, video No. 2, (**COUNT 69**) depicts an individual without any clothes on
24 setting up the video camera. As he sits down he is identified as Defendant. Deborah Sena is
25 also in the video along with T.S. Deborah Sena is seen without clothing fondling her breasts
26 while performing oral sex on Defendant. Defendant gets up off the bed and bring back T.S.,
27 telling him to lie down on the bed. Deborah Sena performed oral sex on T.S. (**COUNT 61**
28 **in alternative to 62**) while Defendant watched and masturbated. Deborah Sena can then be

1 seen laying on her back with T.S. inserting his penis into her vagina. **(COUNT 63 in**
2 **alternative to 64)** Defendant is pictured on the right side of the screen masturbating himself.
3 The video then shows T.S. laying down with Deborah Sena on top of him, helping him insert
4 his penis into her vagina. **(COUNT 65 in alternative to 66)** PHT, Vol. I, pp. 222-224. The
5 video next shows T.S. on his back with Deborah Sena performing oral sex on him **(COUNT**
6 **67 in alternative to 68)** while Defendant is behind Deborah Sena engaging in sex with her.
7 PHT, Vol. I, p. 225. State's proposed Exhibit "3" was as still photo of T.S. right before he
8 engaged in the missionary position with Deborah Sena, which was admitted by the Court.
9 PHT, Vol. I, p. 226.

10 State's Exhibit "1", Video No. 3, depicted someone setting up a camera and a shower
11 curtain of a standup shower comes into view. Defendant is seen in the video and then T.S.
12 and Deborah Sena are observed entering the shower, neither are wearing clothes. Deborah
13 Sena is observed wiping something off of T.S.'s face. Defendant can be seen walking to the
14 camera and repositioning it. PHT, Vol. I, pp. 226-227. **(COUNTS 55 AND 56)** Detective
15 Ramirez testified that State's proposed Exhibit "4" was a still picture of T.S. and Deborah
16 Sena in the shower, taken from Video No. 3, which was admitted by the Court. PHT, Vol. I,
17 p. 228. **(COUNT 59 AND 60)**

18 Detective Ramirez described Exhibit 1, Video No. 4 as being shot through a door,
19 with the person in the video being T.G., who is in the shower with no clothes on. **(COUNTS**
20 **118 AND 119)** The video then pans down and shows Defendant receiving oral sex.
21 Detective Ramirez believed the Defendant to be the recipient of the oral sex based upon
22 hearing his voice on the video which is similar in nature to all of the others. PHT, Vol. I, pp.
23 228-229

24 On August 28, 2015, Detective Ramirez continued his preliminary hearing testimony.
25 With regard to Exhibit 1, Video No. 5, Detective Ramirez testified that it depicts video being
26 shot through an opening and is an image of E.C., in the stand-up shower. **(COUNTS 115-**
27 **116)** State's proposed Exhibit "6" was identified as a picture of E.C. in the shower, from the
28 video he had just observed. The video was admitted in to evidence by the Court. PHT, Vol.

1 II, pp. 8-10.

2 Exhibit 1, Video No. 6 (**COUNTS 99 AND 100**) depicted a bedroom seen in previous
3 videos as well as parts of the Defendant in the mirror while he is adjusting the video camera.
4 The video proceeds to show Terrie Sena removing R.S.'s clothes. In the video, Terrie directs
5 R.S. to lie on his back and she places his penis in her mouth. (**COUNT 95**) R.S. is observed
6 using his left hand to fondle Terrie Sena's breast. The video also depicts Terrie positioning
7 R.S.'s hand on her breasts, showing him to massage her breasts, while she masturbates him
8 with her left hand. PHT, Vol. II, pp. 10-11. The video goes on to show R.S. kissing Terrie
9 Sena on her right breast and Terrie Sena continues to orally copulate R.S. The video shows
10 Terrie Sena positioned on her back with R.S. positioned between her legs penetrating her
11 vagina with his penis. (**COUNTS 96 AND 97**) PHT, Vol. II, pp. 11-12. The video shows
12 both Terrie Sena and R.S. stop and appear to look back, after which point they reposition
13 themselves in the missionary position and it appear that R.S. is penetrating Terrie Sena with
14 his penis in her vagina while she massages R.S.'s buttocks. PHT, Vol. II, pp. 12-13. The
15 video continues and Defendant appears and can be seen masturbating. Defendant points to
16 R.S. to get on the right side of Terrie Sena and he positions himself behind Terrie Sena,
17 where he appears to penetrate her vagina or anus while she performs oral sex on R.S.
18 (**COUNT 98**) PHT, Vol. II, p. 13. A conversation is being had during the incident,
19 involving Defendant; however, Detective Ramirez was not able to make out what was being
20 said. PHT, Vol. II, p. 14. Detective Ramirez identified a still photograph, taken from the
21 video, of R.S. and Terrie Sena as State's Exhibit "7" PHT, Vol. II, p. 14.

22 Detective Ramirez testified that Exhibit 1, Video No. 7 depicts T.G. in the shower,
23 similar to the previous shower scenes (**COUNT 118 AND 119**); and, identified State's
24 Exhibit No. "8" as a still photograph of T.G. from the video just viewed. PHT, Vol. II, p. 15.
25 Detective Ramirez testified that Exhibit 1, Video No. 8, depicts T.G. in the stand-up shower
26 from the previous video with the same angle filming; and, State's Exhibit "9" as a still
27 photograph of T.G., taken from the video. PHT, Vol. II, p. 16.

28 Detective Ramirez testified that other entries of evidentiary value came off the same

1 electronic storage device to include State's Exhibits 13 through 22 which he identified as
2 being images of M.C. and Terrie Sena. PHT, Vol. II, p. 17. State's proposed Exhibit "10"
3 was identified as a DVD containing images of the printed copies, to include stills of R.S.
4 Terrie Sena and Defendant. Those images were found to be relative to the investigation in
5 that they were a video that had been broken up into unallocated space, and contain images of
6 Terrie Sena, R.S. and Defendant engaging in sexual contact. PHT, Vol. II, pp. 18-19. Exhibit
7 "10" was admitted by the Court. **(COUNTS 103 AND 104)** PHT, Vol. II, p. 19.

8 Detective Ramirez identified frame number 0458 of Exhibit 10 as a room in the
9 residence labeled office. PHT, Vol. II, p. 20. Frame number 750 depicted R.S. sitting on a
10 stool, clothed, and other images of Terrie Sena. PHT, Vol. II, p. 21. Image number 1,000
11 depicts R.S. playing with his foot and Terrie Sena. PHT, Vol. II, p. 21. Image number 1328
12 depicts R.S. standing up and Terrie Sena knelt down and appearing to unbuckle R.S.'s
13 shorts. PHT, Vol. II, p. 21. Image number 1500 depicts R.S. removing his polo shirt, his
14 shorts are off and his penis is exposed. Terrie Sena is kneeling down holding a blue object of
15 clothing and is wearing her brassiere. PHT, Vol. II, p. 22. Image number 1640 depicts R.S.
16 with his shirt partially on and Terrie Sena has her mouth on R.S.'s penis, **(COUNT 101)**
17 with her brassiere off and her breasts exposed. PHT, Vol. II, p. 22. Frame number 4111
18 depicts R.S. with his shirt partially on top. Terrie Sena has her mouth on R.S.'s penis and
19 Defendant has his pants partially down and is masturbating. PHT, Vol. II, p. 23. In the
20 course of viewing the frames Detective Ramirez was able to see Defendant's face and make
21 a positive I.D. Detective Ramirez explained that the video proceeds with still images of
22 Terrie Sena's mouth on Defendant's penis while she is holding R.S.'s penis and it goes back
23 and forth with the same sexual action, by Terrie Sena placing her mouth on R.S.'s penis.
24 PHT, Vol. II, pp. 23-24. **(Count 102)** Detective Ramirez identified State's Exhibits 11 and
25 12 as follows: Exhibit "11" depicts R.S. sitting in front of Defendant and Terrie Sena is
26 standing to the left of Defendant. Exhibit "12" depicts R.S. standing in front of Defendant,
27 both still clothed, with Terrie Sena is unbuckling the pants of R.S. PHT, Vol. II, p. 25.

28 //

1 **The Preliminary Hearing Testimony of E.C. Relevant to Bindover**

2 E.C. testified that she was 14 years of age and in the ninth grade. E.C. further
3 testified that she lived with her mom, grandparents, cousin, two sisters, brother, and aunt.
4 PHT, Vol. II, p. 50. E.C. identified Defendant and indicated that he was her aunt's ex-
5 husband. E.C. testified that Defendant had been her uncle her entire life as far as she could
6 remember and she visited his residence at 6012 Yellowstone in North Las Vegas, Clark
7 County, Nevada. E.C. testified that she visited the residence more than one time and she
8 began visiting when she was 10 or 11 years of age, and in the fifth grade. PHT, Vol. II, p. 51.
9 E.C. testified that she went to Defendant's house almost every weekend to visit her aunt
10 Terrie and her cousins, R.S., A.S. and T.S. PHT, Vol. II, p. 52.

11 E.C. testified that when she was 11 years old Defendant would touch her breasts and
12 vagina, underneath her clothes, by having her lift up her shirt and put her pants to her ankles,
13 while they were in the office. PHT, Vol. II, p. 53. E.C. testified that it happened more than
14 one time and Defendant would fondle her breasts with his hands and rub his hands over her
15 vagina. PHT, Vol. II, p. 55. E.C. testified that she went to Defendant's house nearly every
16 weekend from the ages of 11 to 12 or 13, from the third grade through the seventh grade.
17 PHT, Vol. II, p. 56. E.C. testified that Defendant would fondle her breasts and vagina a
18 couple of times during each weekend that she was there during the fifth grade when she was
19 11 years of age. E.C. remembered Defendant touched her more than three times, as it
20 became a routine. PHT, Vol. II, p. 58-59. E.C. testified that her birthday is December 21,
21 2000. E.C. testified that the last time something happened was before Deborah Sena left in
22 2014. PHT, Vol. II, p. 60. E.C. testified that she would expect Defendant to touch her when
23 she went over there and she got used to it happening. PHT, Vol. II, p. 62. E.C. testified that
24 she remembered those things happening in the fifth grade, sixth grade, seventh grade, and
25 eighth grade. PHT, Vol II, p. 64. **(COUNTS 107-114).**

26 E.C. testified that she took a shower at the residence a couple of times. Specifically,
27 E.C. recalled an incident when she had lice in her hair. E.C. was shown a picture of herself
28 that was taken of her in the shower, in the office. E.C. testified the picture was taken

1 sometime between the fifth and seventh grade. E.C. did not know that the picture was being
2 taken. PHT, Vol. II, pp. 65-66. **(COUNTS 115 AND 116).**

3 **The Preliminary Hearing Testimony of T.G. Pertinent to Bindover**

4 T.G. testified that she was 18 years of age and her date of birth is January 9, 1997.
5 T.G. testified that Terrie Sena is her aunt and her mother's sister. T.G. testified that her
6 mom is Kimberly Grisham and that M.C. is her aunt, and E.C. is her cousin. T.G. testified
7 that she grew up in Las Vegas. PHT, Vol. II, p. 86. While growing up, T.G. spent time with
8 her aunt, Terrie Sena, and visited her residence located at 6012 Yellowstone, Las Vegas,
9 Clark County, Nevada. T.G. was seven or eight years of age when she began visiting Terrie
10 Sena at that address. T.G. visited every weekend until she was 15 years age. T.G. stopped
11 visiting because she no long wanted to go over to the residence. T.G. testified that
12 Defendant, Terrie Sena, and Deborah Sena lived at the residence when she visited, as did her
13 cousins, T.S., A.S., B.S. and R.S. PHT, Vol. II, pp. 87-88.

14 T.G. testified that Defendant once showed her a picture of her aunt, M.C., giving him
15 oral sex. **(COUNT 117)** T.G. was in the office when he showed her the picture, which was a
16 separate building behind the residence, with computers, a T.V., a couch, a little kitchen, and
17 a bathroom. PHT, Vol. II, p. 89. T.G. testified that Defendant showed her the pictures on
18 the computer and that she was 11 or 12 when that occurred. T.G. testified that they were just
19 looking at pictures and Defendant showed her that one. T.G. testified that she did not really
20 say much to Defendant when he showed her the picture. PHT, Vol. II, pp. 90-91.

21 T.G. testified that she utilized the shower in the office from the time she was 7 until
22 she was 15. T.G. viewed State's Exhibits "5", "8", and "9" and identified herself in those
23 photos. T.G. testified that the photos depicted her in the shower, in the office. T.G. testified
24 that she had no idea that she was being photographed while showering. T.G. testified that she
25 was 13 or 14 years of age in the photographs that were taken. **(COUNTS 118 AND 119).**
26 PHT, Vol. II, pp. 91-92. T.G. testified that she did not visit the residence or shower at the
27 residence after she turned 16. PHT, Vol. II, p. 93.

28 //

The Preliminary Hearing Testimony of T.S. Relevant to Bindover

T.S. testified that he was 20 years of age and his birthday is December 2, 1994. T.S. testified Defendant is his father and Terrie Sena is his biological mother. T.S. testified that Deborah Sena is his stepmom; and, that he has a sister and two brothers. T.S. testified that A.S. is the biological child of Defendant and Terrie Sena; R.S. is the biological child of Terrie Sena; and, B.S. is the biological child of Defendant and Deborah Sena. PHT, Vol. II, pp. 107-108.

T.S. testified that he had testified in a previous proceeding regarding sexual conduct that was going on at the trailer located at 6012 Yellowstone. PHT, Vol. II, p. 108. During that time, T.S., Defendant, Terrie Sena, Deborah Sena and the entire family lived there. T.S. resided there from the time he was 5 until he moved out a month after he turned 18. PHT, Vol. II, p. 109.

When T.S. was 14 or 15 years of age, he engaged in having sexual intercourse with both of his parents, in the bedroom and in the shower. During the shower incident, he and Deborah Sena had been painting and were dirty. Defendant told T.S. to get in the shower. Deborah Sena was already in the shower, naked. T.S. thought the request was really weird and did not want to do it. When T.S. got in the shower he and Deborah Sena began cleaning each other at Defendant's instruction. **(COUNTS 55 AND 56)** Additionally, Deborah Sena placed her mouth on T.S.'s penis and gave him a "blowjob". **(COUNT 54)**. Deborah Sena also bent over in the shower and T.S. placed his penis around her vaginal area, at Defendant's instruction. T.S. stated that his penis did not go into the hole but did go between the lips of Deborah's vaginal area. **(COUNT 57 AND 58)**. PHT, Vol. II, pp. 110-114.

T.S. testified that the incident occurring in the bedroom also happened when he was between the ages of 14 and 15, during the day. T.S. was called into the bedroom by Defendant. When T.S. went into the bedroom Defendant was naked. Defendant told T.S. to remove his clothes. Deborah Sena came into the bedroom and also got naked. T.S. inserted his penis between the lips of Deborah Sena's vaginal area, while Defendant inserted his

1 penis into Deborah Sena's anal opening. T.S. testified that prior to such act but during the
2 same incident Deborah Sena placed his penis in her mouth. PHT, Vol. II, pp. 117-118. T.S.
3 watched the video of himself, Deborah Sena, and Defendant engaging in various sexual acts,
4 in the bedroom. T.S. testified that while he may not remember all of the details, the video
5 speaks for itself. T.S. was shown State's Exhibits "3" and "4" and identified Exhibit "3" as a
6 photograph of him in the shower with Deborah Sena and Exhibit "4" as a photograph of him
7 and Deborah Sena in the bedroom. PHT, Vol. II, pp. 121-122. **(COUNT 61 in the**
8 **alternative to 62; COUNT 63 in the alternative to 64; COUNT 65 in the alternative to**
9 **66; COUNT 67 in the alternative to 68; and COUNT 69)**

10 **The Preliminary Hearing Testimony of B.S. Pertinent to Bindover**

11 B.S. testified that he was 17 years of age and his date of birth is August 13, 1998.
12 B.S. further testified that he is a senior at Bonanza High School. B.S. testified that he lives
13 with his sister, A.S., but he used to reside at the residence located at 6012 Yellowstone
14 Avenue, North Las Vegas, Clark County, Nevada. B.S. lived at the Yellowstone address
15 from 1998 until June of 2014. PHT, Vol. II, pp. 147-149. B.S. testified that he lived at the
16 residence with his half-sister, A.S. and his half-brother, T.S., and R.S. B.S. testified that
17 Defendant and Deborah Sena are his parents and they lived in residence, as did Terrie Sena.
18 PHT, Vol. II, pp. 149-151. B.S. testified that when he was 14 years old he engaged in sex
19 acts with Terrie Sena in the back office area. B.S. described the office area as having a
20 computer, animae dolls, a kitchen, and a bathroom. B.S. testified that Defendant was present
21 when he engaged in the sex acts with Terrie Sena. PHT, Vol. II, pp. 152.

22 B.S. testified that Defendant told him to pull down his pants and Terrie Sena gave
23 him oral sex. **(COUNT 79)**. B.S. testified that he put his penis in Terrie Sena's vagina.
24 **(COUNT 80)** B.S. testified that Defendant stood and watched the entire thing and was
25 trying to direct them. During the incident, Defendant also told B.S. to touch Terrie Sena's
26 boobs with his hands. PHT, Vol. II, pp. 153-156. **(COUNTS 81 AND 82)**.

27 B.S. testified that Defendant had him come to the back office to have sex with Terrie
28 Sena and touch her breasts, twice. PHT, Vol. II, p. 156. **(COUNTS 83-85)**.

1 B.S. clarified that the first time he went to the back office his penis went into Terrie
2 Sena's mouth; his penis went into Terrie Sena's vagina; and, he touched Terrie Sena's
3 boobs, when he was 14 years of age. (COUNTS 79 – 82) PHT, Vol. II, p. 157.

4 B.S. testified that the second time something happened in the office he was still 14
5 years old and he had gone into the back office for something early in the morning. B.S.
6 testified that he and Defendant and Terrie Sena were the only people in the office. B.S.
7 testified that Defendant told him and Terrie Sena to have sex and directed them. On that
8 occasion, B.S. put his penis in Terrie Sena's vagina. (COUNT 83).

9 B.S. testified that he had sexual contact with Deborah Sena in the bedroom when he
10 was 14 years of age. B.S. was watching T.V. Defendant called B.S. outside to the pool
11 where Defendant was with Deborah Sena. Defendant and Deborah took off their clothes and
12 began having sex in the pool. B.S. tried to look away but Defendant told him to remove his
13 clothing and told B.S. to watch him and Deborah having sex. (COUNT 70) PHT, Vol. II,
14 pp. 163-164. After they left the pool and went back inside the house, Defendant brought
15 B.S. into the bedroom where he and Deborah Sena were. Defendant had B.S. strip and get
16 onto the bed. Defendant instructed Deborah to sit on B.S.'s "dick" which went inside
17 Deborah Sena's vagina. PHT, Vol. II, pp. 165-166. (COUNTS 72-73). B.S. then got on top
18 of Deborah Sena and put his dick back inside her vagina (COUNT 74-75). B.S. testified that
19 before the sexual intercourse occurred, Defendant told Deborah Sena to give B.S. a blow job
20 and she placed his penis in her mouth. (COUNT 71). PHT, Vol. II, pp. 167-168.

21 B.S. testified that he never told anyone about what had been happening in the house
22 due to death threats from the Defendant. Defendant told B.S. and other members of the
23 household that he would kill them if they told what was going on with anything. On cross
24 examination B.S. testified that he mentioned to the police something about [Defendant]
25 threatening to break his legs. PHT, Vol. II, pp. 168-170. (COUNT 86).

26 **The Preliminary Hearing of A.S. Relevant to Bindover**

27 A.S. testified that she was 25 years of age and her birthday is May 22, 1990. A.S.
28 graduated from high school in early June 2008. A.S. testified that Defendant is her father;

1 Deborah Sena is her stepmother; and, Terrie Sena is her mother. A.S. testified that she had
2 three brothers, B.S., age 17; R.S., a half-brother, age 17; and, T.S., age 20. PHT, Vol. III,
3 pp. 6-7. A.S. testified that when he was 11 years old she living at 6012 Yellowstone
4 Avenue, North Las Vegas, Clark County, Nevada, with Defendant, Deborah Sena, Terrie
5 Sena, T.S., B.S., and R.S. PHT, Vol. III, p. 8. During that time, A.S. would come home
6 from school and Defendant would be there. Defendant would ask A.S. if she loved him and
7 when she said yes, he wanted her to show him that she loved him. Defendant asked A.S. to
8 take her clothes off and touched her breasts area. **(COUNT 2)** A.S. testified that Defendant
9 rubbed her clit with his fingers, between the lips of her vagina area. **(COUNTS 3 AND 4)**
10 PHT, Vol. III, pp. 13-14. Defendant told A.S. to get on the bed and removed his dick/penis
11 from his jeans and began rubbing it on the outside of A.S.'s pussy/vagina. **(COUNT 5)**
12 Defendant instructed A.S. to spread out a little and she was laying on her back on the bed
13 with her legs hanging off the bed. Defendant lifted her legs and spit on his hands, rubbing
14 saliva on his dick/penis. Defendant penetrated A.S.'s anus with his penis which hurt her.
15 **(COUNT 6 AND 7)** A.S. told Defendant that it hurt her and he told her "It's going to hurt
16 but this is life." Defendant came inside of A.S.'s anus and told her to get dressed because the
17 moms would be home. PHT, Vol. III, pp. 15-16.

18 Defendant had anal intercourse with A.S. frequently, from time she was 11 years in
19 May 2001 until 2009. A.S. testified that it normally happened when the moms were gone
20 during the weekdays, two or three times a week. A.S. testified that on a rare occasion
21 Defendant would go more than a week without doing it, but he never went more than one
22 month without doing' it. In 2009, when A.S. was 19 years of age, it became less frequent.
23 PHT, Vol. III, pp. 17-18. A.S. testified that Defendant would do that to her in his room; in
24 her room; in the master bathroom; in the living room; and, in the boys' room. PHT, Vol. III,
25 p. 19-20. **(COUNTS 8, 9, 11, 12, 16, 17, 23, 28, 33, 38, 43).**

26 A.S. testified that Defendant would rub his hands on her boobs, at least once a month,
27 when he was putting his penis in her. PHT, Vol. III, p. 21. **(COUNT 10, 13, 18, 24, 29, 34,**
28 **39, 44)** When A.S. was 14 years of age (May 22, 2004) Defendant began doing other things

1 to her. A.S. testified that she was taking a shower and Defendant came into the bathroom
2 and jumped into the shower with her. Defendant rubbed A.S.'s boobs and then told her to
3 get up against the wall. Defendant tried to put his penis in her anal opening but he inserted
4 into her vagina, taking her virginity. (PHT, Vol. III, p. 22. A.S. testified that Defendant put
5 his penis into her vagina on more than one occasion; and, that it happened every two weeks;
6 never less than once a month. Defendant would put his penis in A.S.'s vaginal opening in the
7 living room; in the boys' room; in the master bedroom; and, in A.S.'s room. PHT, Vol. III,
8 pp. 23-24. **(COUNTS 21, 22, 26, 27, 31, 32, 36, 37, 41, 42).**

9 A.S. testified that there were times that Defendant would put himself inside her
10 vagina and then he would put himself inside her anal opening. There was also times that he
11 would have anal sex one day and vaginal sex the other. PHT, Vol. III, p. 25. A.S. testified
12 that during that time there were days that Defendant would put his penis up against her
13 boobs and he would have her give him a blow job. A.S. was 12 years old the first time she
14 gave Defendant a blow job. A.S. gave Defendant blow jobs from the time she was 12 years
15 old up to 2013. A.S. would do this one or twice a month and some months not at all. A.S.
16 would do this mainly in the living room and the master bedroom. **(COUNTS 14, 15, 19, 20,**
17 **25, 30, 35, 40, 45)** A.S. was 23 years old in 2013. A.S. left the house in June 2013. The last
18 time something happened with Defendant was in January 2013. PHT, Vol. III, pp. 25-27.

19 When A.S. was 14 years of age, Defendant, Terrie Sena, and A.S. were in the
20 Defendant's back office. Terrie Sena gave Defendant a blow job, which A.S. described
21 Defendant's penis in Terrie Sena's mouth, while A.S. watched. Defendant inserted his penis
22 into A.S.'s anal opening, while Terrie Sena watched. **(COUNT 52)** PHT, Vol. III, pp. 29-
23 31.

24 A.S. testified that when she was 17 to 18 years of age, during the last few months of
25 high school, before graduation, A.S. got home from school and Defendant brought Deborah
26 Sena out to where A.S. was. Defendant told A.S. to get naked and wanted her and Deborah
27 Sena play with each other's boobs and rub each other's clits. A.S. played with Deborah
28 Sena's clit and Deborah Sena rubbed the outside area of A.S.'s vagina. **(COUNTS 48, 49)**

1 Defendant had Deborah Sena get on top of A.S. Defendant inserted his penis into A.S.'s
2 vagina while Deborah was still on top of A.S. **(COUNTS 46 AND 47)** Defendant removed
3 his penis and put it in Deborah Sena's vagina or anus, while Deborah Sena was on top of
4 A.S., with her nipples touching A.S.'s chest. PHT, Vol. III, pp. 32-36. Defendant had
5 Deborah Sena get on her back and he placed a pillow under Deborah Sena's back before
6 penetrating her again. Defendant had A.S. play with herself so he could watch. A.S. touched
7 the outside of her vagina with her hand. **(COUNT 51)** PHT, Vol. III, p. 37. A.S. clarified
8 that she touched Deborah Sena's boobs **(COUNT 50)** and Deborah Sena touched her boobs;
9 that Deborah Sena touched the outside of A.S.'s pussy and A.S. touched Deborah Sena's clit.
10 PHT, Vol. III, p. 38.

11 A.S. testified that she never told anybody in fear of what Defendant would do. A.S.
12 testified that Defendant would use threats and tell her that she was going to be taken away
13 and sent to juvi. Defendant also told A.S. that she would do those things if she loved him.
14 PHT, Vol. III, pp. 40. **(COUNT 53)**

15 A.S. testified that between the ages of 11 and 14, Defendant engaged primarily in anal
16 intercourse with her. Additionally, without a doubt, Defendant engaged in vaginal and/or
17 anal intercourse with her at least once a year from the time she was 11 years of age until she
18 was 23 years of age. Defendant also put his finger in A.S.'s pussy at least once a year
19 throughout that same time period. PHT, Vol. III, pp. 40-41.

20 **The Preliminary Hearing Testimony of R.S. Pertinent to Bindover**

21 R.S. testified that he was 17 years of age and his date of birth is June 14, 1998. R.S.
22 testified that he was a senior in high school and attends Sunset High School. R.S. testified
23 that he lives with his biological dad and had been living there since December 2014. R.S.
24 testified that his biological mother is Terrie Sena. PHT, Vol. IV, pp. 14-15. R.S. testified
25 that he lived at the residence located at 6012 Yellowstone Avenue, Las Vegas, Clark County
26 Nevada his entire life, until he moved out when he was 16 years old, back in June 2014.
27 PHT, Vol. III, pp. 15-16. When R.S. lived at the residence, he lived there with A.S., T.S.,
28 B.S., Deborah Sena, Defendant, and Terrie Sena. PHT, Vol. IV, pp. 17-29.

1 R.S. testified that when he was 12 and 13 years old, in the seventh or eighth grade,
2 Defendant sexually abused him. The abuse happened more than once and it happened in
3 R.S.'s room, Defendant's room, the office, and the living room. PHT, Vol. III, pp. 21-22.
4 R.S. testified that Defendant made him remove his clothes and he would touch R.S.'s behind
5 where poop comes out, with his dick. R.S. described an incident that occurred when he was
6 12 or 13, in his bedroom, and Defendant came in and made R.S. remove his clothes, by
7 yelling at him and grabbing him. R.S. was afraid Defendant would come after him and hurt
8 him if he did not do what Defendant said. R.S. got onto the bedroom floor and laid flat on his
9 stomach while Defendant inserted his penis into R.S.'s anal opening. **(COUNT 87 AND 88).**
10 PHT, Vol. IV, pp. 27-29. Another incident occurred in the Defendant's office, a separate
11 building at the back of the house, when R.S. was 14 or 15 years old. Defendant showed R.S.
12 videos on his computer. R.S. testified that the video was of Defendant and Terrie Sena
13 having sex in the back office. PHT, Vol. IV, pp. 29-31. **(COUNT 105)**

14 R.S. testified that when he was in junior high school, between 12 or 13 years of age,
15 he and Defendant were in the living room. R.S. had no pants or underwear on, nor did
16 Defendant. Defendant sat on the couch and had R.S. sit on his penis, inserting his penis into
17 R.S.'s butt. R.S. did not want to do that and Defendant forced him. **(COUNTS 89 AND 90).**
18 R.S. testified that Defendant put his penis inside R.S.'s butt on three occasions when R.S.
19 was in junior high school and 12 or 13 years old; once in R.S.'s bedroom; once in the living
20 room; and, once in Defendant's room. **(COUNTS 91 AND 92)** PHT, Vol. IV, pp. 34-36.

21 R.S. testified that Defendant stopped his conduct for a little while when R.S. was 15
22 years of age. R.S. had no idea why it stopped at that time. PHT, Vol. IV, p. 36. R.S. testified
23 that when it started again he was still 15 years old and it went on until R.S. moved out of the
24 residence in June 2014. R.S. testified that it happened on two separate occasions, once in
25 Defendant's office and once in Defendant's room. The incident in the office occurred while
26 Defendant was sitting naked, on his computer chair, and R.S. sat on him and he inserted his
27 penis into R.S.'s butt. **(COUNT 93).** The incident in Defendant's bedroom occurred with
28 R.S. laying on his stomach, on the bed, and Defendant inserting his penis into R.S.'s butt.

1 (COUNT 94) PHT, Vol. IV, pp. 38-40.

2 R.S. testified that his mom, Terrie Sena, also engaged in sexually abusing him, on two
3 separate occasions. The incidents occurred in the office and in Defendant's room. The first
4 incident occurred in the bedroom prior to R.S. turning 16. R.S. went into the bedroom
5 because his mom was in there. Terrie Sena was talking to R.S. and began taking off his
6 clothes. Defendant was in the hallway and watching what was happening. Terrie Sena took
7 all of R.S.'s clothes off and Defendant R.S. to lay on the bed, on his back. Terrie Sena
8 removed her clothes and began sucking on R.S.'s dick. PHT, Vol. IV, pp. 41-44. (COUNT
9 95). Defendant instructed Terrie Sena to lay on her back and had R.S. get on top of her and
10 insert his dick into her private spot. (COUNTS 96 AND 97). PHT, Vol. IV, p. 45.
11 Defendant had R.S. get off of Terrie Sena and lay down on his back. Terrie Sena sucked
12 R.S.'s dick while Defendant got behind Terrie Sena. (COUNT 98). R.S. testified that he did
13 not want to do any of those things but he was forced to do it by Defendant. PHT, Vol. IV, p.
14 46.

15 When R.S. was 12 or 13, he went to Defendant's office so that Defendant could help
16 him with an ingrown toenail. Afterward, Defendant told R.S. to stand up and Terrie Sena
17 removed R.S.'s clothes from the waist down. Terrie Sena sucked on R.S.'s dick. Terrie Sena
18 alternated and began sucking on Defendant's dick and then sucked on R.S.'s dick PHT, Vol.
19 IV, pp. 48-50. (COUNTS 101 AND 102). R.S. testified that Defendant told him that if he
20 ever told somebody he and Terrie Sena would hate him and Defendant would make his life a
21 living hell. PHT, Vol. IV, p. 50. (COUNT 106).

22 ARGUMENT

23 I. COUNT 1 – CONSPIRACY TO COMMIT SEXUAL ASSAULT

24 A. REFERENCES TO COUNTS 115 AND 118 WILL BE STRICKEN 25 FROM COUNT 1.

26 Counts 46, 48, 52, 54, 61-68, 71-72, 74, 76, 79, 80, 83, 95-96, 98 and 101-102 charge
27 Defendant with various acts of Sexual Assault and Sexual Assault with a Minor Under
28 Sixteen involving victims A.S., T.S., B.S., and R.S., for conspiring with DEBORAH SENA

1 and/or TERRIE SENA and/or other's unknown to commit a sexual assault, by performing
2 those acts described in the aforementioned counts. The State will provide the Court with a
3 Fourth Amended Criminal Information that accurately reflects those charges in Count 1.

4 **B. THE STATE PRESENTED SUFFICIENT EVIDENCE THAT THE**
5 **DEFENDANT COMMITTED THE CRIMES OF CONSPIRACY TO**
6 **COMMIT SEXUAL ASSAULT**

7 A conspiracy is an agreement between two or more persons for an unlawful purpose.
8 Doyle v. State, 112 Nev. 879, 886, 921 P.2d 901, 911 (1996). *The conspiracy agreement*
9 *may be inferred by a "coordinated series of acts" in furtherance of the underlying offense.*
10 Doyle, supra; see also, Gaitor v. State, 106 Nev. 785, 790 n.1, 801 P.2d 1372, 1376 n.1
11 (1990); overruled on other grounds by, Barone v. State, 109 Nev. 1168, 1171, 866 P.2d 291,
12 292 (1993).

13 The law concerning the sufficiency of the evidence to support a conspiracy charge is
14 well established as recognized by the Nevada Supreme Court:

15 . . . Direct evidence is not required to establish a conspiracy, but
16 circumstantial evidence may be relied upon. This rule is
sanctioned for the obvious reason that experience has
demonstrated that as a general proposition a conspiracy can only
be established by circumstantial evidence.

17 Sheriff v. Lang, 104 Nev. 539, 543, 763 P.2d 56 (1988) citing Goldsmith v. Sheriff, 85 Nev.
18 295, 304, 454 P.2d 86, 92 (1969), (quoting People v. Massey, 312 P.2d 365, 382 (Cal. Ct.
19 App. 1957)).

20 The issue of sufficiency of the evidence for conviction has been addressed by the
21 Nevada Supreme Court:

22 We recognize and appreciate the concerns expressed in the
23 dissenting opinion. Nonetheless, "[c]onspiracy is seldom
24 susceptible of direct proof and is usually established by inference
25 from the conduct of the parties." State v. Dressel, 513 P.2d 187,
26 188 (N.M. 1973), citing Oliver v. United States, 121 F.2d 245
27 (10th Cir. 1941), cert. denied 314 U.S. 666 (1941). The facts of
28 this case do demonstrate a coordinated series of acts, sufficient to
infer the existence of an agreement essential to the conspiracy
convictions of the appellants: Gaitor and Allen approached the
victim together, at the same time of the night, in the same
location, with the same apparent motive; they simultaneously
robbed Mr. Lockhart, each taking a role in the attack, and then
they fled. It may be possible that through some symbiotic
relationship the two appellants happened to be on the same street,

1 at the same time, with the same intent to rob someone and,
2 without more, elected to approach the victim together and
3 coordinate their assault. However, the realm of possibilities is
4 not controlling here. Rather, the issue asks whether there is
5 substantial evidence to support the jury's conclusion that the
6 appellants' conspired to commit the crime. We conclude there
7 was.

8 Gaitor v. State, 106 Nev. 785, 790 at fn 2, 801 P.2d 1372 (1990).

9 Therefore, in Nevada the acts of one conspirator in furtherance of the conspiracy are
10 the acts of all, and each and every individual will be held criminally responsible for the acts
11 of the other.

12 Further, NRS 195.020 is applicable and states:

13 Every person concerned in the commission of a felony, gross
14 misdemeanor or misdemeanor, whether the person directly
15 commits the act constituting the offense, or aids or abets in its
16 commission, and whether present or absent; and every person
17 who, directly or indirectly, counsels, encourages, hires,
18 commands, induces or otherwise procures another to commit a
19 felony, gross misdemeanor or misdemeanor is a principal, and
20 shall be proceeded against and punished as such. The fact that
21 the person aided, abetted, counseled, encouraged, hired,
22 commanded, induced or procured, could not or did not entertain
23 a criminal intent shall not be a defense to any person aiding,
24 abetting, counseling, encouraging, hiring, commanding, inducing
25 or procuring him or her.

26 In Walker v. State, 6 P.3d 477 (2000), the Supreme Court of Nevada held, "the State
27 may proceed on alternate theories of liability as long as there is evidence in support of those
28 theories." Further, "although the State must allege specific facts concerning its theories of
liability so as to afford a criminal defendant adequate notice to prepare his defense, it is not
necessary to plead a conspiracy in the charging document if the evidence actually shows its
existence." The Supreme Court then concluded "that the information in this case was
sufficiently detailed to put Walker on notice that the State was pursuing alternate theories of
criminal liability. In particular, the State alleged three theories of principal liability in
Walker's information: (1) Walker directly committed the offense; (2) Walker aided and
abetted in the offense by acting in concert in its commission; and (3) Walker conspired to
commit the offense and is vicariously liable for acts committed in furtherance of the
conspiracy." Id. at 479.

1 When the prosecution seeks to establish a Defendant's guilt on a theory of aiding and
2 abetting, "the indictment [or information] should specifically allege this theory and, if
3 known, the specific acts constituting the means of the aiding and abetting in order to afford
4 the Defendant adequate notice to prepare a defense." Point v. State, 102 Nev. 143, 148, 717
5 P.2d 39 (1986) (citing Barren v. State, 99 Nev. 661, 669 P.2d 725 (1983)).

6 Counts 47, 49-51, 55-59, 69-70, 73, 75, 77, 81, 84-85, 97, 99, 103, 115, and 118 of
7 the Fourth Amended Criminal Complaint has been properly pled under Barren and its
8 progeny. The Fourth Amended Criminal Complaint clearly alleges with respect to each of
9 the aforementioned counts that the Defendant did the acts alleged by (1) Defendant directly
10 performing the acts and/or (2) by Defendant acting with DEBORAH SENA and/or TERRIE
11 SENA and/or others unknown pursuant to a conspiracy with DEBORA SENA and/or
12 TERRY SENA and/or others unknown in performing such acts and/or (3) by Defendant and
13 DEBORAH SENA and/or TERRIE SENA and/or other's unknown aiding and abetting each
14 other by counseling, encouraging, inducing,, or otherwise procuring each other to commit
15 such acts.

16 This language meets the Barren standard and gives CHRISTOPHER SENA adequate
17 notice of the State's intent to proceed on an aiding and abetting theory. Point, 102 Nev. at
18 148, 717 P.2d 39; *see also* Guy v. State, 108 Nev. 770, 779, 839 P.2d 578 (1992).

19 II. SPECIFICITY

20 In LaPierre v. State, 108 Nev. 528, 531 (1992), the Nevada Supreme Court stated:

21 "We have repeatedly held that the testimony of a sexual assault
22 victim alone is sufficient to uphold a conviction. (Citations
23 omitted). However, the victim must testify with some
24 particularity regarding the incident in order to uphold the charge.
25 We are cognizant that child victims are often unable to articulate
26 specific times of events and are oftentimes reluctant to report the
27 abuse to anyone until quite some time after the incident.
28 Cunningham v. State, 100 Nev. 396, 400, 683 P.2d 500, 502
(1984). We also understand that it is difficult for a child victim to
recall exact instances when the abuse occurs repeatedly over a
period of time. **We do not require that the victim specify exact
numbers of incidents, but there must be some reliable indicia
that the number of acts charged actually occurred. . .**"
(Emphasis Added).

1 The victim, in *LaPierre*, testified with particularity to four of the ten incidents of
2 sexual assault. At trial the child was asked how many times the Defendant had assaulted her
3 and she answered "Ten or more." When asked how she knew that was the number she
4 answered, "Because he was doing - - I don't know. I know it's ten or more because he was
5 doing it up until he left." When she was asked later if she was absolutely sure how many
6 times it happened she answered, "No I am not absolutely sure. That's why I said ten or
7 more."² *Id.*

8 The Supreme Court further stated:

9 "In this case, the child's testimony consisted of her speculation
10 that it must have happened at least ten times. Something more is
11 required to support *a conviction*. *If the victim in this case had*
12 *testified that the incidents occurred every weekend for the*
period of time Richard resided in the family home or that he
assaulted her nearly every weekend, we might view this case
differently." (Emphasis added)

13 *LaPierre*, at 529 (Emphasis added).

14 In *Rose v. State*, 123 Nev. 24, 163 P.3d 408 (2007), our Nevada Supreme Court
15 stated:

16 The Due Process Clause of the United States Constitution
17 requires that an accused may not be convicted unless each fact
18 necessary to constitute the crime with which he is charged has
19 been proven beyond a reasonable doubt. [FN3]¹ When
20 determining whether a jury verdict was based on sufficient
21 evidence to meet due process requirements, we will inquire
22 "whether, after viewing the evidence in the light most favorable
23 to the prosecution, any rational trier of fact could have found the
24 essential elements of the crime beyond a reasonable doubt.' "
25 [FN4]² " '[I]t is the jury's function, not that of the court, to assess
26 the weight of the evidence and determine the credibility of
27 witnesses.'" [FN5]³

28 *Id.*, 123 Nev. 24 at ___, 163 P.3d 408 at 414.

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26 ¹ FN3. *Fiore v. White*, 531 U.S. 225, 228-29, 121 S.Ct. 712, 148 L.Ed.2d 629 (2001); *In re Winship*, 397 U.S.
27 358, 364, 90 S.Ct. 1068, 25 L.Ed.2d 368 (1970); *Origel-Candido v. State*, 114 Nev. 378, 382, 956 P.2d 1378,
1381 (1998).

28 ² FN4. *Origel-Candido*, 114 Nev. at 381, 956 P.2d at 1380 (quoting *Koza v. State*, 100 Nev. 245, 250, 681
P.2d 44, 47 (1984)).

³ FN5. *Id.* (quoting *McNair v. State*, 108 Nev. 53, 56, 825 P.2d 571, 573 (1992)) (alteration in original).

1 The Court went on to state:

2 When considering the sufficiency of the evidence in sexual
3 assault cases, we have held that the victim's testimony alone is
4 sufficient to uphold a conviction. [FN6]⁴ Although the victim's
5 testimony need not be corroborated, we have held that "the
6 victim must testify with some particularity regarding the incident
7 in order to uphold the charge." [FN7]⁵ In evaluating whether a
8 child-victim's uncorroborated testimony was sufficient to support
9 multiple charges in *LaPierre v. State*, we acknowledged that
10 "child victims are often unable to articulate specific times of
11 events" and have difficulty recalling "exact instances when the
12 abuse occurs repeatedly over a period of time." [FN8]⁶
13 Accordingly, we explained in *LaPierre* that to support multiple
14 charges of sexual abuse over a period of time, a child victim need
15 not "specify exact numbers of incidents, but there must be some
16 reliable indicia that the number of acts charged actually
17 occurred." [FN9].⁷

18 Rose, 123 Nev. 24 at ___, 163 P.3d 408 at 414-415.

19 **VICTIM A.S.**

20 With respect to Defendant's argument that Counts 8-13, 16 – 20 and 23-45 involving
21 victim A.S. should be dismissed for lack of specificity (Defendant's Brief, pp. 7-8), the State
22 would simply refer the Court to the Statement of Facts above, specifically pages 17-20,
23 wherein the State obtained very specific testimony from A.S. as to each of those charges,

24 With respect to the Defendant's argument regarding Count 48 – Sexual Assault
25 (Defendant's Brief, p. 9; 27-28, p. 10; 1-6), the State would first point out that at no time
26 does the State allege that DEBORAH SENA is a victim in this case. DEBORAH SENA is a
27 Co-Defendant in this case. With respect to providing the Court with sufficient evidence to
28 bindover on that charge as it relates to victim, A.S., the State would refer the Court to the
Statement of Facts above, specifically page 19; lines 18-22. Furthermore, Count 48 has
been sufficiently Barren-pled.

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⁴ *La Pierre v. State*, 108 Nev. 528, 531, 836 P.2d 56, 58 (1992).

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

1 VICTIM R.S.

2 With respect to Defendant's argument that Counts 91-92 involving victim R.S. should
3 be dismissed for lack of specificity (Defendant's Brief, p. 8), the State would refer this
4 Court to the Statement of Facts above, specifically page 21; lines 7-13, wherein the State
5 obtained very specific testimony from R.S. as to when and where those counts occurred.

6 With respect to Defendant's argument that Counts 95-98; 101-102 involving R.S.
7 should be dismissed (Defendant's Brief, p. 12), the State would refer this Court to the
8 Statement of Facts above, specifically, p. 22; 2-19, wherein the State presented sufficient
9 evidence that Defendant committed the crimes along with his Co-Defendant, TERRIE
10 SENA. The pleading has been properly Barren-pled.

11 With respect to Defendant's argument that Count 105 involving victim R.S. should be
12 dismissed (Defendant's Brief, p. 15), the State would refer this Court to the Statement of
13 Facts above, specifically, p. 21; 10-13, wherein the State presented sufficient evidence that
14 Defendant committed crime of Child Abuse, Neglect or Endangerment - Sexual
15 Exploitation, pursuant to NRS 200.508(1). In his brief, Defendant wrongfully suggests that
16 sexual exploitation somehow requires substantial mental harm. (Defendant's Brief, p. 14).

17 NRS 200.508(1) states:

18 1. A person who willfully causes a child who is less than 18
19 years of age to suffer unjustifiable physical pain or mental
20 suffering as a result of abuse or neglect or to be placed in a
situation where the child may suffer physical pain or mental
suffering as the result of abuse or neglect:

21

22 NRS 200.508(4)(a) defines abuse or neglect as:

23 ...Physical or mental injury of a non-accidental nature, sexual
24 abuse, sexual exploitation, negligent treatment or maltreatment
25 of a child under the age of 18 years...under circumstances which
indicate that the child's health or welfare is harmed or threatened
with harm.

26 NRS 432B.110 defines "Sexual Exploitation" to include

27 "Forcing, allowing or encouraging a child...to view
28 pornographic film or literature..."

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1 This Defendant is charged with Child Abuse, Neglect, or Endangerment – Sexual
2 Exploitation because he willfully placed R.S. in a situation where he may have suffered
3 unjustifiable physical pain, or mental suffering as a result of the abuse or neglect (i.e., sexual
4 exploitation). The statute is clear in that physical pain and/or mental suffering does not have
5 to occur. The statute is violated when the child is placed in a situation where physical pain
6 or mental suffering as the result of abuse or neglect may occur.

7 **VICTIM E.C.**

8 With respect to Defendant's argument that Counts 107-114 involving victim E.C.
9 should be dismissed for lack of specificity (Defendant's Brief, pp. 8-9), the State would refer
10 this Court to the Statement of Facts above, specifically page 13; lines 2-25, wherein the State
11 obtained very specific testimony from E.C. as to when and where those counts occurred.

12 **VICTIM T.S.**

13 With respect to Defendant argument that Count 54-58, involving T.S. should be
14 dismissed, the State would refer this Court to the Statement of Facts above, specifically,
15 pages 15-16, wherein the State presented sufficient evidence that Defendant committed the
16 crimes along with his Co-Defendant DEBORAH SENA. The pleading has been properly
17 Barren-pled.

18 With respect to Defendant's argument that Counts 61, 63, 65, and 67, involving T.S.,
19 should be dismissed (Defendant's Brief, pp. 11-12), the State would refer this Court to the
20 Statement of Facts above, specifically, page 15; 2-28, p. 16; 1-9, where T.S. provided
21 specific testimony that those counts occurred in the bedroom when he was between the ages
22 of 14 and 15, during the day. The State has charged Defendant with Counts 61, 63, 65 and 67
23 – Sexual Assault with a Minor Under Sixteen Years of Age, based upon the testimony of
24 T.S.; however, the State is entitled to charge Defendant with alternate counts of Sexual
25 Assault as further alleged in Counts 62, 64, 66 and 68, in the event that the jury has any
26 difficulties distinguishing what T.S.'s age was at the time of that incident, during trial of this
27 matter.

28 //

1 With respect to Defendant's argument that Counts 55 and 57 involving T.S., should
2 be dismissed (Defendant's Brief, pp. 15-16), the State would refer this Court to the
3 Statement of Facts above, specifically, page 15; 13-23, where T.S. provided specific
4 testimony that those counts occurred. Defendant has been charged with Child Abuse,
5 Neglect or Endangerment – Sexual Abuse, pursuant to NRS 200.508(1). In his brief,
6 Defendant wrongfully suggests that sexual exploitation somehow requires substantial mental
7 harm. (Defendant's Brief, pp. 15-16).

8 NRS 200.508(1) states:

9 1. A person who willfully causes a child who is less than 18
10 years of age to suffer unjustifiable physical pain or mental
11 suffering as a result of abuse or neglect or to be placed in a
situation where the child may suffer physical pain or mental
suffering as the result of abuse or neglect:

12

13 NRS 200.508(4)(a) defines abuse or neglect as:

14 "...phsyical or mental injury of a non-accidental nature, sexual
15 abuse, sexual exploitation, negligent treatment or maltreatment
16 of a child under the age of 18 years...under circumstances which
indicate that the child's health or welfare is harmed or threatened
with harm.

17 NRS 432B.100 defines sexual abuse to include

18 "open or gross lewdness"

19 This Defendant is charged with Child Abuse, Neglect, or Endangerment – Sexual
20 Abuse because he willfully placed T.S. in a situation where he may have suffered
21 unjustifiable physical pain, or mental suffering as a result of the abuse or neglect (i.e., sexual
22 abuse). The statute is clear in that physical pain and/or mental suffering does not have to
23 occur. The statute is violated when the child is placed in a situation where physical pain or
24 mental suffering as the result of abuse or neglect may occur.

25 **VICTIM T.G.**

26 With respect to Defendant's argument that Count 117, involving T.G., should be
27 dismissed (Defendant's Brief, p. 14), the State would refer this Court to the Statement of
28 Facts above, specifically, p. 14, wherein T.G. provided specific testimony that Count 117

1 occurred, when CHRISTOPHER SENA showed her a picture of her aunt, M.C., giving
2 CHRISTOPHER SENA oral sex, when T.G. was 11 or 12 years of age. Defendant has been
3 charged with Child Abuse, Neglect or Endangerment – Sexual Exploitation, pursuant to NRS
4 200.508(1). In his brief, Defendant wrongfully suggests that sexual exploitation somehow
5 requires substantial mental harm. (Defendant's Brief, p. 14).

6 NRS 200.508(1) states:

7 1. A person who willfully causes a child who is less than 18
8 years of age to suffer unjustifiable physical pain or mental
9 suffering as a result of abuse or neglect or to be placed in a
10 situation where the child may suffer physical pain or mental
11 suffering as the result of abuse or neglect.

12 NRS 200.508(4)(a) defines abuse or neglect as:

13 ...Physical or mental injury of a non-accidental nature, sexual
14 abuse, sexual exploitation, negligent treatment or maltreatment
15 of a child under the age of 18 years...under circumstances which
16 indicate that the child's health or welfare is harmed or threatened
17 with harm.

18 NRS 432B.110 defines "Sexual Exploitation" to include

19 "Forcing, allowing or encouraging a child...to view
20 pornographic film or literature..."

21 This Defendant is charged with Child Abuse, Neglect, or Endangerment – Sexual
22 Exploitation because he willfully placed T.G. in a situation where she may have suffered
23 unjustifiable physical pain, or mental suffering as a result of the abuse or neglect (i.e., sexual
24 exploitation). The statute is clear in that physical pain and/or mental suffering does not have
25 to occur. The statute is violated when the child is placed in a situation where physical pain
26 or mental suffering as the result of abuse or neglect may occur.

27 **VICTIM B.S.**

28 With respect to Defendant's argument that Counts 81 and 84 involving B.S., should
be dismissed (Defendant's Brief, pp. 15-16), the State would refer this Court to the
Statement of Facts above, specifically, page 16; lines 22-28, where T.S. provided specific
testimony that those counts occurred. Defendant has been charged with Child Abuse,

1 Neglect or Endangerment – Sexual Abuse, pursuant to NRS 200.508(1). In his brief,
2 Defendant wrongfully suggests that sexual exploitation somehow requires substantial mental
3 harm. (Defendant's Brief, pp. 15-16).

4 NRS 200.508(1) states:

5 1. A person who willfully causes a child who is less than 18
6 years of age to suffer unjustifiable physical pain or mental
7 suffering as a result of abuse or neglect or to be placed in a
8 situation where the child may suffer physical pain or mental
9 suffering as the result of abuse or neglect.

10

11 NRS 200.508(4)(a) defines abuse or neglect as:

12 "...physical or mental injury of a non-accidental nature, sexual
13 abuse, sexual exploitation, negligent treatment or maltreatment
14 of a child under the age of 18 years...under circumstances which
15 indicate that the child's health or welfare is harmed or threatened
16 with harm.

17 NRS 432B.100 defines sexual abuse to include

18 "open or gross lewdness"

19 This Defendant is charged with Child Abuse, Neglect, or Endangerment – Sexual
20 Abuse because he willfully placed B.S. in a situation where he may have suffered
21 unjustifiable physical pain, or mental suffering as a result of the abuse or neglect. The
22 statute is clear in that physical pain and/or mental suffering does not have to occur. The
23 statute is violated when the child is placed in a situation where physical pain or mental
24 suffering as the result of abuse or neglect may occur.

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1 CONCLUSION

2 Based upon the above, the State asks that this Court bind over Defendant to stand trial
3 in District Court on Court 1 through 124 of the Fourth Amended Criminal Complaint.


4 DATED this 8th day of December, 2015.

5 STEVEN B. WOLFSON
6 DISTRICT ATTORNEY
Nevada Bar #001565

7
8 BY


9 JAMES R. SWEETIN
10 Chief Deputy District Attorney
Nevada Bar #005144

11
12 BY

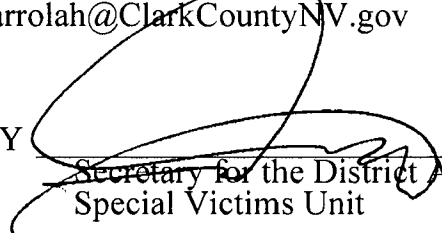

13 MARY KAY HOLTHUS
14 Chief Deputy District Attorney
15 Nevada Bar #003814

16
17
18 CERTIFICATE OF SERVICE

19 I, HOWARD CONRAD, hereby certify that service of the above and foregoing was
20 made this 8th day of DECEMBER 2015, to:

21 VIOLET RADOSTA, DPD
22 harrolah@ClarkCountyNV.gov

23
24 BY


25 Secretary for the District Attorney's Office
26 Special Victims Unit

27
28 hjc/SVU

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CASE NO. C-14-311463-1

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IN THE JUSTICE COURT OF LAS VEGAS TOWNSHIP
COUNTY OF CLARK, STATE OF NEVADA

4

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-oOo-

6 STATE OF NEVADA,

7 Plaintiff,

8 vs.

9 CHRISTOPHER SENA,

10 Defendant.

11

12 REPORTER'S TRANSCRIPT

13 OF

14 ARGUMENT AND BINDOVER

15

16 BEFORE THE HON. JANIECE MARSHALL
JUSTICE OF THE PEACE

17

TUESDAY, DECEMBER 15, 2015
11:21 a.m.

18

19

APPEARANCES:

20

For the State: JAMES SWEETIN, ESQ.
MARY KAY HOLTHUS, ESQ.
Chief Deputies District Attorney

22

For the Defendant: VIOLET R. RADOSTA, ESQ.
Deputy Public Defender

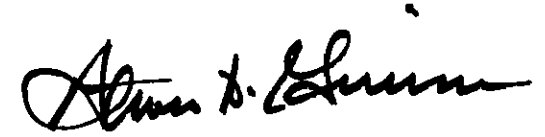
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Reported by: CHERYL GARDNER, RMR-RPR
CCR No. 230

25

CHERYL GARDNER, RPR-RMR, CCR 230



CLERK OF THE COURT

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1 LAS VEGAS, CLARK COUNTY, NV, TUESDAY, DEC. 15, 2015
11:21 a.m.

2 -oOo-

3 THE COURT: Christopher Sena, 14F14785X.

4 Parties ready to proceed.

5 MS. RADOSTA: Yes, Your Honor.

6 THE COURT: All right. So this is the time
7 set for argument.

8 MR. SWEETIN: And, Judge, I know that we
9 briefed this fairly extensively so I'm going to
10 submit it to the Court unless there are any specific
11 questions.

12 THE COURT: All right. So some of the ones
13 are not in dispute. So counts that are in dispute
14 are 55, 57, 78, 18, 4, 118, 115, and 11 and 117.

15 MS. RADOSTA: As to Count 1 there are
16 references to Count 118 and 115 in there.

17 MR. SWEETIN: Judge, the State in its
18 opposition has no opposition to striking Count 1 -- I
19 would note we did file a fourth amended criminal
20 Complaint that was supposed to be stricken and it was
21 not so I'd ask that to be amended by interlineation.

22 THE COURT: All right. So we will strike
23 reference to Count 118, 115 and 118 in Count 1 and
24 then Count 1 is not in dispute. And then --

25 MS. RADOSTA: Actually, Your Honor, Count 1

1 I did -- that one was in dispute.

2 THE COURT: It was?

3 MS. RADOSTA: Yes. The numbers that you
4 read out there were several that you did not mention.

5 THE COURT: I haven't gone through them all
6 yet.

7 MS. RADOSTA: Sorry.

8 THE COURT: 55, 57, 78, 81, 84, 105, and
9 117 are in dispute.

10 MS. RADOSTA: In addition to --

11 THE COURT: That's what I'm asking. Are
12 those still in dispute?

13 MS. RADOSTA: Sorry, Judge. I
14 misunderstood you.

15 THE COURT: And then -- all right. Moving
16 onto the concept of the conspiracy the allegations of
17 conspiracy in the other counts I see those are in
18 Counts 46, 52, 56, 59, 79, and 85. And so the
19 defense is seeking to strike those based on the
20 theory that -- of the reference to conspiracy.

21 MS. RADOSTA: That's correct, Your Honor.
22 Specifically the defense's position and it's not much
23 beyond what I put in my motion but they really did
24 not show any evidence of any type of -- the State
25 cites to a coordinated series of acts can be shown to

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1 show in furtherance of the underlying offense, but in
2 this particular case they actually had something
3 that's fairly unique with regard to Terrie Sena.

4 They had the coconspirator on the stand and
5 for some of those counts obviously there are some
6 counts involving Terrie Sena, some counts involving
7 Deborah Sena or conspiracy counts, but they did have
8 Terrie on the stand and at no point during her
9 testimony did she say there was any type of
10 agreement, did the State elicit that type of
11 testimony.

12 She never once even came close to say,
13 yeah, you know what, Chris and I sat down and we had
14 a discussion that this was going to happen or that
15 she knew that these things were going to happen
16 before they happened, anything. They had the
17 coconspirator on the stand and they didn't come close
18 to demonstrating any type of agreement or any
19 coordinated series of acts in furtherance of the
20 conspiracy.

21 This is not a situation, Judge, where we
22 have like a murder case or a robbery case or
23 something where they know more than one person was
24 involved but they don't necessarily know who pulled
25 the trigger or who tied the people up or who, you

1 know, drove the get away car but they know all of
2 those things happened.

3 What we have here, Judge, is a situation
4 where we have most of these alleged incidents are on
5 video particularly the ones involving the conspiracy
6 counts. We know who the person is who actually
7 directly committed the offense, and as far as the
8 charges involving my client and the conspiracy on
9 this, my client is never the person on the video
10 committing the actual sexual act.

11 So they do need something beyond just the
12 sexual act. They need some amount of proof and they
13 seem satisfied with, well, these things happened and
14 that's about it. These things happened. That's
15 their proof of the conspiracy. They stated they had
16 the best potential evidence to them at their
17 availability and it was not testified to so --

18 THE COURT: They don't have to come forward
19 with their evidence. They just have to come forward
20 with slight or marginal, and a conspiracy rarely is
21 there direct evidence of it. It's always inferred
22 from the conduct, right?

23 MS. RADOSTA: That is true, but it's also
24 rare that at a preliminary hearing that they do have
25 the coconspirator testifying at the prelim.

1 THE COURT: I agree, but there's no
2 requirement that you have a conspirator testify.

3 MS. RADOSTA: No, there isn't. I'm just
4 pointing out to the Court that if the testimony was
5 available to them that there was some type of an
6 agreement or some type of conversation or something
7 like that, I would highly doubt that they would hold
8 that particular piece of evidence back at the
9 preliminary hearing 'cause that makes their
10 conspiracy stronger. It doesn't make it weaker.

11 That testimony wasn't elicited and I would
12 submit to Your Honor that the reason it wasn't
13 presented is because it doesn't exist.

14 THE COURT: Mr. Sweetin.

15 MR. SWEETIN: I don't know of a case where
16 the conspiracy was stronger. We have video of the
17 defendant and others acting in unison to commit other
18 acts. Certainly an inference can be drawn for
19 purposes of preliminary hearing that a conspiracy
20 exists the State would submit, and that's clearly
21 been shown here.

22 THE COURT: So based on Palm versus State,
23 114 Nevada 127 at page (inaudible) 1989 case it
24 provides that the existence of a proof sufficient
25 evidence conspiracy conviction at trial based on the

1 State has the slight or marginal evidence standard at
2 a preliminary hearing and there was evidence
3 demonstrating conduct both by the video as well as
4 testimony by witnesses of what was occurring, I think
5 the State has met their burden as to the conspiracy
6 counts and I appreciate the defense argument that
7 they could have elicited testimony of a coconspiracy
8 but they are not required to.

9 MS. RADOSTA: I got 114 Nevada. Could you
10 give me the cite one more time.

11 THE COURT: (Inaudible) versus eighth
12 judicial note 14 Nevada 477 a 2008 supreme court case
13 which discusses conspiracy and also Thomas versus
14 State 114 Nevada 127 at page 143 a 1998 case
15 explaining that a conspiracy usually established by
16 inference conduct of the parties.

17 MS. RADOSTA: Thank you.

18 THE COURT: All right. And so that
19 addresses the conspiracy counts which are Count 1,
20 bindover on Count 1. And then defense request that
21 the conspiracy language be stricken from Count 46,
22 52, 61 to 77, and 79 to 85, 95 to 99, 101 to 103, and
23 Count 105.

24 So defendant's request is denied as to
25 those based on I think that the State has met their

1 legally sufficient burden to proceed on the
2 conspiracy theory.

3 Now, moving on to Counts 8 to 13, 16, 20,
4 23, and 45. These are the sexual assault minor under
5 14 with lewdness with a minor under 16. All right.
6 So in LaPierre versus State 108 Nevada 528, 1992,
7 indicates the Nevada supreme court found the
8 testimony of a sexual assault victim alone is
9 sufficient to uphold a conviction so in these
10 instances the victims are testifying with respect to
11 what occurred and when it occurred so with respect to
12 Count 8 to 13 and 16 to 20, A.S. testified that the
13 alleged act occurred frequently from May 2001 to 2009
14 approximately two or three times a week. It happened
15 in the bedroom, the livingroom and in the boys'
16 room. She also said he grabbed her breast at least
17 once a month.

18 I think that the testimony is sufficient
19 for the State to have met their burden as to legally
20 sufficient conduct or legally sufficient to establish
21 probable cause based on Counts 8 through 13 and 16
22 through 20. And then Count 23 to 45 defense argument
23 is that these counts occurred before the 16th
24 birthday. A.S. testified the specific act her room,
25 the boys' room and the livingroom. She said she gave

1 the defendant a blow job not very often, some months
2 not at all.

3 Defense had argued in their pleading that
4 A.S. did not give specific details about the
5 encounters however the location, what she was
6 wearing, and other facts. I think though based on
7 the LaPierre case that A.S.'s testimony was
8 sufficient. The victim doesn't have to provide
9 perfect testimony. It just has to be legally
10 sufficient evidence, some evidence to support the
11 cause of action, and I think that the testimony of
12 A.S. was sufficiently specific to support those
13 allegations.

14 Now, as to Counts 91, 92 the sexual assault
15 minor under 14, lewdness with a minor under 14, this
16 is the victim R.S. R.S. testified that he recalled
17 the defendant touching the area of his behind and
18 that he was touched by defendant's penis when he was
19 12 or 13, and this allegedly occurred in the
20 bedroom. The defendant walked in and had R.S. take
21 off his clothes.

22 He also testified that the defendant
23 touched his penis while he was on the couch. I think
24 that's sufficient evidence for the preliminary
25 hearing stage for the State to proceed with those

1 counts.

2 MS. RADOSTA: Actually, Your Honor, just
3 for clarification, regarding those --

4 THE COURT: Sure.

5 MS. RADOSTA: The way I was reading the
6 State's charging document was that they had
7 charged -- I apologize. Let me go back. I'm trying
8 to find -- they charged sex assault minor under the
9 age of 14 and then in the alternative lewdness with a
10 minor under the age of 14 starting with Count 87, 88,
11 89, 90, 91, and 92, and 93, and 94.

12 The testimony that the State elicited was
13 for two incidents but they've charged more than two
14 incidents, and that's why I was only objecting to
15 Count 92 and -- I'm sorry, 91 and 92.

16 I don't dispute what the Court just, what
17 the Court just stated was the testimony but that to
18 me is, for lack of a better way to explain it, is
19 linked to Count 87, 88, 89, and 90, 91 and 92. I
20 just didn't see the testimony that was yet another
21 incident. I apologize if that was not clear in my
22 motion and as I'm reading my paragraph right now,
23 it's not overly clear. Yeah, they charged these
24 other ones but there were additional counts that I
25 just didn't see additional conduct associated with.

1 THE COURT: So the State has alleged
2 between June 14, 2010, and June 13, 2012, that R.S.
3 testified that he was sexually assaulted, that he was
4 under 14, that there was sexual penetration, anal
5 intercourse, and reviewing the transcript it said
6 that R.S. testified he recalled defendant touching
7 him.

8 So that's a touching, and he was also
9 touched by defendant's penis when he was 12 or 13 so
10 those are two separate acts and they allege that it
11 occurred in the victim's bedroom and that defendant
12 walked in and made R.S. take his clothes off. So
13 requiring him to take his clothes off, touching him,
14 and then also I understood that the testimony of the
15 witness was when he testified as to defendant's penis
16 touching him when he was 12 or 13, that's what he was
17 testifying to.

18 MS. RADOSTA: That was just, if that's how
19 the Court is interpreting it, then I just want to
20 make sure that the Court understood my argument
21 'cause I didn't feel that it was completely clear in
22 my written document that the Court has in front of
23 it.

24 So if the Court feels there was sufficient
25 testimony presented for -- let me rephrase this --

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1 for Count 87 through 92 'cause Count 93 is actually
2 under 14 so it's kind of different so if Count 87
3 through 92 if the Court felt there was enough
4 evidence to support those charges, I'll just submit
5 it.

6 THE COURT: So because these are all
7 addressed at various points in the brief, there are
8 two separate incidents R.S. testified to regarding
9 sexual intercourse with Terrie Sena. She
10 testified -- this is in 95 and 98, right? You're
11 extending these arguments to 95 and 98.

12 MS. RADOSTA: Actually, Your Honor, let me
13 see.

14 Yes, and the argument for 95 through 98 was
15 more about the aiding and abetting argument and once
16 again, Your Honor, I just need to, there was no easy
17 way to put this brief together that made it flow to
18 make it, you know, I tried a different -- I heard
19 Mr. Sweetin had the same issue. They were cutting
20 and pasting.

21 The argument for 95 and 98 was more about
22 the aiding and abetting language that they did not
23 provide proof of that because the State has charged
24 and they certainly can charge a Complaint any way
25 they see fit and they elect to charge it under the

1 three theories, but we know on most of these that my
2 client is not directly responsible for these -- we
3 have the video so what we're talking about is the
4 conspiracy which the Court has already ruled on and
5 then the aiding and abetting so that was the part
6 that I was arguing against regarding 95 and 98.

7 THE COURT: Yeah, and this -- R.S.
8 testified -- with respect to sexual intercourse with
9 Terrie Sena, R.S. testified that Terrie Sena --
10 mother -- Mr. Sena is -- recalled two separate
11 incidents with his mother, one that occurred in the
12 office, the other in his room. Terrie testified it
13 was in Mr. Sena's room. R.S. didn't remember the age
14 or -- he did remember he was under 16.

15 He went in the room 'cause his mother was
16 in there. Once in there she began taking off her
17 clothes. Mr. Sena was not in the room and the
18 clothes were removed. But then based on the video
19 and R.S.'s allegation that Mr. Sena made Terrie Sena
20 get on her back on the bed and then R.S. get on top
21 of her, and Terrie Sena didn't have sexual
22 intercourse with R.S. and according to the testimony
23 Mr. Sena made him get off Terrie and then she laid on
24 the bed and Mr. Sena performed oral sex.

25 So R.S. testified that Mr. Sena was

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1 directing it. So simply because you don't see him in
2 the room he's doing it and R.S.'s testimony was that
3 Terrie Sena was doing this based at his direction.

4 Then the second incident Terrie Sena and
5 R.S. in the office and R.S. testified that he came in
6 the room for help. Mr. Sena was in the office and
7 that once in the office Terrie Sena took off R.S.'s
8 clothes. She then performed fellatio on R.S. After
9 a while she began performing oral sex on Mr. Sena at
10 the same time so I think under an aiding and abetting
11 theory the State has met their burden as to legally
12 sufficient evidence.

13 The testimony is clear that Mr. Sena was in
14 the room in the office. It's my recollection that
15 R.S. said Mr. Sena essentially directed the conduct.
16 So I think they have met sufficient -- they do meet
17 the burden.

18 All right. Then as to I think that takes
19 us to --

20 MS. RADOSTA: I'll withdraw my argument,
21 Your Honor, regarding Count 48. I honestly think I
22 meant to pull it out of the document 'cause it seems
23 incomplete. It doesn't seem to be a complete
24 thought.

25 THE COURT: Okay.

CHERYL GARDNER, RPR-RMR, CCR 230

1 MS. RADOSTA: So I'll withdraw that
2 objection to Count 48 at this point in time. I
3 either meant to pull it out or forgot to put another
4 paragraph in there. I'm not sure which one
5 happened. It's clearly not a complete thought.

6 THE COURT: All right. Moving on to 117
7 and this count is alleging child abuse, child
8 endangerment, sexual exploitation.

9 MS. RADOSTA: If I can just be heard
10 briefly regarding this.

11 THE COURT: Go ahead.

12 MS. RADOSTA: The reason that we, the
13 defense are of the opinion that the State failed to
14 prove up the element of substantial mental harm is
15 because in every single version of the amended
16 Complaint in the -- on page 1 in the opening
17 paragraph when they list all of the charges, they
18 list child abuse and neglect, sexual abuse or
19 exploitation, category A felony.

20 When you look at the statute the only way
21 child abuse and neglect with sexual abuse or
22 exploitation becomes a category A felony is if there
23 is substantial mental harm and the alleged victim is
24 under the age of 14 and they've done it over and over
25 and over gain. They have filed this document with it

1 being a category A felony.

2 I appreciate it's not in the body of the
3 charge itself, but up front they're saying it's a
4 category A felony. This is a 15 to life felony.
5 This is a big category A felony. The way the statute
6 reads the only way a category A felony is sexual
7 abuse, or I'm sorry, child abuse and neglect is if
8 substantial bodily or mental harm results to the
9 child and if the child is less than 14 years old and
10 the harm is the result of sexual abuse or
11 exploitation, it is a category A felony and that's
12 under 200.508.

13 If the State is of the position now that
14 that is not the charge that they are charging him
15 with, then the way we are reading the statute then
16 what they are currently charging him with is a one to
17 six. There's a huge difference. We just need
18 clarification. If it's the State's position that
19 it's not an A felony, then we'll submit it.

20 MR. SWEETIN: Well, that is the State's
21 position and it shouldn't be an A felony. That's my
22 error. It should be a category B felony. That's a
23 one to six.

24 THE COURT: So we need to amend --

25 MR. SWEETIN: As part of the pleading

1 technically under the court rules we would amend I
2 think on line 20 of the first page where we make
3 reference to child abuse neglect category A is
4 actually a category B felony.

5 MS. RADOSTA: So then regarding --

6 THE COURT: So as to Count 117 the bindover
7 as to category B felony. Your argument is --

8 MS. RADOSTA: Right.

9 THE COURT: -- they didn't establish
10 legally sufficient evidence for category A but the
11 district attorney concedes there is sufficient
12 evidence for category B felony.

13 MS. RADOSTA: The crux of our argument was
14 they didn't meet the burden for a category A.

15 THE COURT: So as to the first page,
16 page 1, line 20 we'll strike the category A felony,
17 amend it to category B felony and then the NRS
18 statute should be --

19 MR. SWEETIN: Should be the same, yes.

20 MS. RADOSTA: It's still subsection 1 but
21 to be clear it's technically subsection 1-B.

22 MR. SWEETIN: I think 1 is fine. You know,
23 I would note that the pleadings themselves if in fact
24 the State was seeking substantial mental harm, we'd
25 have to plead that in pleading. We haven't done

1 that.

2 MS. RADOSTA: I appreciate that. I just
3 had problem with this before. Like I said, there was
4 a difference between them.

5 THE COURT: Category B and just leave the
6 rest.

7 MS. RADOSTA: Right.

8 THE COURT: All right. Then moving on
9 to --

10 MS. RADOSTA: Actually, Your Honor, that
11 was the argument regarding 105 and then 55, 57, 70,
12 81, and 84 as well.

13 THE COURT: And the same revision.

14 MS. RADOSTA: Uh-huh.

15 THE COURT: That the State's only seeking
16 to bind the defendant over as to category B felonies
17 as to those counts.

18 MR. SWEETIN: That's correct, Judge.

19 THE COURT: All right. So what about --
20 I'm sorry. Which additional count did you say?

21 MS. RADOSTA: There were -- additionally we
22 were objecting to -- and I'm trying to keep track
23 here.

24 THE COURT: Is it 55, 57, 70, 81, and 84?

25 MS. RADOSTA; 54 through 58 which were the

1 testimony of T.S. and then also alternatively 61
2 through 68 for different -- every other one for a
3 different reason and then 107 to 114 which was E.C.'s
4 testimony.

5 THE COURT: And is that the category A,
6 category B?

7 MS. RADOSTA: No. That was lewdness with a
8 child specificity.

9 THE COURT: So you're arguing specificity.

10 MS. RADOSTA: Regarding 107 and 114.

11 THE COURT: Okay. So going back to those
12 counts --

13 MS. RADOSTA: If the Court will recall,
14 this was E.C. She testified that she was a niece to
15 the family and would come over on the weekend, but
16 she provided this Court with very little detail as to
17 the alleged incident. She couldn't remember anything
18 other than it happened. She couldn't -- she didn't
19 testify as to daytime or nighttime but then say yeah,
20 maybe it happened at night, maybe it happened during
21 the daytime. No, it didn't happen in my fifth grade
22 year; no, it didn't happen in my sixth grade year;
23 didn't happen in seventh grade, but then when asked
24 again she said it could have happened in each of
25 those years.

1 In terms of the defense being able to
2 reasonably defend those charges she says she was over
3 at the house every weekend except when she wasn't.
4 There's just absolutely no way that the defense has
5 any idea when these alleged incidents occurred given
6 the testimony that was presented at the preliminary
7 hearing.

8 THE COURT: So the niece's testimony --
9 what count do they start at?

10 MS. RADOSTA: 107 to 114.

11 THE COURT: I'm trying to figure out where
12 I saw that testimony.

13 MS. RADOSTA: I think she testified on day
14 two.

15 MR. SWEETIN: I think we summarized it on
16 page 13 of our supplement.

17 MS. RADOSTA: 12 and 13. Oh, I'm sorry.

18 MR. SWEETIN: Page 13 and 14, Your Honor.

19 THE COURT: All right. So this is E.C.

20 She said she visited the residence almost every
21 weekend between the age of 11 to 12 or 13. She
22 testified that she recalled when she was 11 that
23 defendant touched her breast and vagina in the
24 office. She did not specify whether it was daytime
25 or nighttime nor did she testify to the type of

1 clothing that was worn at the time.

2 There was some inconsistency that she also
3 would have been around in fifth grade, but she did
4 testify she definitely remembered the event happening
5 in sixth and seventh grade. And based on one child's
6 testimony that occurred at the time there was a child
7 there it has to be sufficient specificity.

8 I think there is sufficient specificity
9 because she's visiting on weekend age 11, 12, and
10 13. She does specify her breasts and vagina were
11 touched in the office. The fact that she can't
12 recall whether it's day or night I don't think
13 discounts the rest of her testimony nor the fact that
14 she can't remember what clothing at the time and she
15 definitely remembers the event occurred in sixth and
16 seventh grade.

17 So for purposes of preliminary hearing I
18 think that the State has met their burden as to this
19 victim. I mean the testimony of sexual assault
20 victim is insufficient under Nevada law. I believe
21 the testimony of the witness. I think it was
22 sufficiently specific for the State proceeding.
23 Obviously the defense will have the right to
24 cross-examine at the trial stage, but for the purpose
25 of preliminary hearing I think the State has met

1 their burden as to E.C.

2 All right. And then as to --

3 MS. RADOSTA: The only other issues, Your
4 Honor, I want to make sure -- I'm looking through my
5 brief. The only one we were objecting to all have to
6 do with T.S. The first argument regarding Count 54
7 to 58 are alleged incidents with Deborah Sena in the
8 shower and whether or not the evidence presented was
9 sufficient for an aiding and abetting theory. And
10 then, well, that's 54 through 58.

11 THE COURT: So defendant wasn't in the
12 shower only Deborah Sena and -- let's. T.S.
13 testified when he was 14 or 15. There was an
14 incident in the shower with his stepmother Deborah
15 Sena. He testified that after painting he and
16 Deborah got in the shower and started cleaning each
17 other. Deborah got in the shower first and Mr. Sena
18 told him to get in the shower as well so I have that
19 testimony that T.S. testified that defendant Mr. Sena
20 asked T.S. to get in the shower as well.

21 In the shower Deborah gave T.S. a blow
22 job. T.S. testified he didn't ask her to do that.
23 He also testified that no one told her to give him a
24 blow job. It was something she did of her own free
25 will and then Deborah after the blow job went over --

SENA

23

1 T.S. testified no one told Deborah to bend over and
2 Volume II, 110, 114.

3 With respect to Mr. Sena T.S. testified
4 that he was walking in and out of the bathroom
5 occasionally. He also testified that it was
6 Mr. Sena's idea to place his penis around her vaginal
7 area and that was at volume -- so T.S. testified at
8 one point that no one told Deborah to do it but then
9 he testified that Mr. Sena was walking in and out of
10 the bathroom occasionally. T.S. also testified it
11 was Mr. Sena's idea -- vaginal area.

12 So looking at Walker versus State, 113
13 Nevada 853 1977 case T.S.'s testimony was that
14 Deborah Sena was already naked in the shower when he
15 got in. The defendant's not charged with that. T.S.
16 also blow job by Deborah Sena her idea and she did it
17 on her own so I don't know -- I think the State needs
18 to address whether there was evidence -- being
19 encouraged -- otherwise procure T.S. in the shower.

20 MR. SWEETIN: And I think that if you again
21 look at the totality of the evidence that we have
22 here -- first of all, we have the defendant directing
23 the child to get into the shower. We have the
24 defendant directing per the testimony of the child.

25 THE COURT: Are you saying that Mr. Sena

1 directed T.S. to get into the shower?

2 MR. SWEETIN: I believe --

3 THE COURT: I have that he was -- that T.S.
4 testified that after painting he and Deborah got in
5 the shower and started cleaning each other. I do
6 have that T.S. said that Mr. Sena was walking in and
7 out of the bathroom occasionally. Do you have that
8 from the transcript that Mr. Sena had T.S. go in the
9 shower?

10 MR. SWEETIN: Yeah. I believe he told T.S.
11 to get into the shower. Deborah Sena was already in
12 the shower naked. I believe that was how testimony
13 came out and subsequent to that he's in the area of
14 the shower. He's directing various sexual
15 activities.

16 If we take that in conjunction with other
17 incidents we have of the defendant even on video with
18 this same victim directing the sexual conduct, I
19 think that the inference is clear that clearly there
20 was a conspiracy or aiding and abetting theory that
21 places the defendant in a situation where he has the
22 same criminal culpability as the other adult in the
23 shower at that time.

24 THE COURT: So this is being videotaped so
25 what page do you have that T.S. testified that

1 defendant told T.S. to get into the shower?

2 MR. SWEETIN: It looks like it would be on
3 page Volume II pages 110 through 114.

4 THE COURT: Let me see. Pages 110 to 114.

5 All right. So in reviewing page 110 the
6 testimony is that T.S. was asked about the shower.
7 It is the shower is -- from painting and you were
8 dirty.

9 And what happened?

10 We got in the shower. We started cleaning
11 each other.

12 How did it end up that you got in the
13 shower together?

14 I got up to take a shower.

15 Who told you to take a shower?

16 Christopher Sena.

17 So who got into the shower first?

18 Deborah.

19 So when Christopher asked you to get into
20 the shower, she was already in there.

21 Yes, ma'am.

22 Was she naked?

23 Yes, ma'am.

24 Did he have you get naked?

25 Yes, ma'am.

1 What were your thoughts at that point?
2 Kind of weird.
3 Did you want to do that?
4 Not really.
5 So why did you?
6 Just to obey an order or just
7 listen to him.
8 Listen to who?
9 Christopher Sena.
10 And this is on now page 111.
11 When you got in the shower, what happened?
12 We started cleaning each other.
13 Why did you do that?
14 Just to take a shower.
15 Was it your own idea to clean Deborah's
16 body?
17 No, ma'am.
18 Whose idea was it?
19 Christopher Sena.
20 You said there was sexual conduct.
21 Yes, ma'am.
22 Now we're on page 112.
23 What was that?
24 Blow job.
25 Deborah gave T.S. a blow job.

1 And he said did you ask her to do that?

2 No, ma'am.

3 Did defendant tell her to do that?

4 No, ma'am.

5 This was something as far as you could tell

6 she did of her own free will.

7 Yes, ma'am.

8 Where was your dad? Where the defendant?

9 And then on page 113, He was walking inside

10 and out of the bathroom occasionally.

11 Watching?

12 I think yes.

13 What happened from there? Were there any

14 other sexual acts in the shower?

15 Sort of.

16 Tell me about that.

17 Sort of where she bent over and the penis

18 went around the vagina area but that didn't

19 last long.

20 Deborah bent over.

21 Yes, ma'am.

22 Did you tell her to bend over?

23 No, ma'am.

24 Did anybody tell her to bend over?

25 I don't remember.

1 But at some point she bent over.

2 Yes, ma'am.

3 And whose idea was it to put your penis
4 around her vaginal area?

5 Christopher Sena's.

6 Did he tell you to do that?

7 Yes.

8 And that's on page 114 he answered yes.

9 There were no other sexual acts in the shower. That
10 ends at page 114.

11 MS. RADOSTA: And actually, Your Honor, if
12 I can just clarify it, the bottom of page 113 into
13 114 the question was whose idea was it to put your
14 penis around the vaginal area? Christopher Sena's.
15 Did he tell you to do that, and the question goes
16 on. There was no question {sic} to did he tell you.

17 THE COURT: Actually because they crossed
18 over each others testimony the answer on line 2
19 page 114 then the next question then there's an
20 answer at 1.

21 MS. RADOSTA: It's how the Court is
22 reading it now. I just want to make sure we were
23 attribute --

24 THE COURT: I think they were questioning
25 over each other so the court reporter has to type

1 whatever is being said at that moment. I do see that
2 he is testifying it was Christopher Sena's idea to
3 put T.S.'s penis in Deborah's vaginal area so I think
4 based on that there is sufficient evidence for the
5 purpose of a preliminary hearing to bind over because
6 according to the testimony of T.S. it was Christopher
7 Sena who directed T.S. to get in the shower when
8 Deborah Sena was already in the shower naked and that
9 Mr. Sena directed him to put his penis in the vaginal
10 area of Deborah. So based on those pages of the
11 transcript I think the State has met its burden as to
12 those counts.

13 MS. RADOSTA: The only other counts that we
14 were objecting to, Judge, were 61, 63, 65, and 67 for
15 a similar argument that there was not sufficient
16 evidence presented regarding an aiding and abetting
17 theory and than the State as an alternate count
18 charged in 62, 64, 66 and 67, sex assault as opposed
19 to sex assault minor under the age of 16 and we would
20 object.

21 They consistently charge how they feel.
22 The testimony was crystal clear, and I know it seems
23 a bit silly to object to four counts when we're
24 talking about 124, but there's no evidence at all for
25 the charge of sex assault here.

1 The testimony is clear that 13 or 14 at the
2 time of the -- if the Court feels there is sufficient
3 evidence for aiding and abetting, then we would ask
4 that the sex assault charge under the similar theory
5 be stricken which are 62, 63, 66, and 68.

6 MR. SWEETIN: And as defense counsel said,
7 the State -- certainly sexual assault is sort of a
8 lesser included in a sexual assault victim under 16.
9 The reason the State might want to plead that way is
10 it's not completely sure of the date that that
11 particular witness will testify to at trial. If in
12 fact it were to limit itself to just a sexual assault
13 victim under 16 and the child ultimately testified
14 they were over 16, we would not have a charge related
15 to that.

16 In this particular case because of things
17 that have been said in the course of the police
18 investigation, the State's concerned with regard for
19 that reason pleading in the alternative. It doesn't
20 establish any additional exposure to the defendant.
21 It's merely an extrinsic pleading which the State's
22 allowed to do under the law.

23 MS. RADOSTA: But if there's no discrepancy
24 in the testimony, 14 or 15 came out a couple of
25 different times during the testimony. The State is

1 saying that, oh, this might happen. There's very
2 little chance at all that this witness is going to
3 get on the stand and say I was over the age of 16,
4 and if that were the case, then the State can ask to
5 submit a lesser at trial of sex assault.

6 They have that option at trial if the
7 testimony comes out differently but when we're
8 talking about reading the number of charges to the
9 jury, the number of counts matter and if by some turn
10 of events this turns into multiple trials with each
11 victim in a separate trial, the number of counts
12 regarding T.S. goes from 124 for the total number of
13 counts that he's charged with to perhaps -- I'm not
14 sure exactly -- but somewhere between 10 to 15 or
15 maybe eight to 12. It makes a difference when a jury
16 is hearing a number of charges read particularly when
17 there's absolutely no evidence presented here that
18 this could be a sexual charge.

19 THE COURT: Mr. Sweetin, your argument was
20 there was inconsistent statements made during the
21 police report but was there any inconsistent
22 statement --

23 MR. SWEETIN: Well, there's inconsistency
24 in regards to this witness's testimony at another
25 prelim in regard to the codefendant.

1 THE COURT: But I only have evidence in
2 front of me at this preliminary hearing, and you have
3 to meet legally sufficient evidence for this
4 preliminary hearing so I'm not sure if there's
5 inconsistencies.

6 MR. SWEETIN: The State's argument would be
7 that clearly there is a sexual assault, clearly under
8 the evidence there is sexual assault under 16. We're
9 pleading those in the alternative and similar to us
10 pleading in this very case sexual assault and
11 lewdness is in the alternative.

12 The State is allowed to do that. We're not
13 going to convict the defendant of both the sexual
14 assault and the lewdness. They're in the
15 alternative. The number of counts certainly can be
16 addressed by defense counsel if they wish to the jury
17 to make that clear, but for purposes of pleading this
18 case the State submits that it's entitled to
19 essentially make those alternative pleadings as
20 strategic reasons just as defense counsel is entitled
21 to do strategic things in the course of a trial.

22 THE COURT: So you're saying 62, 64, 66,
23 and 67 are in the alternative.

24 MR. SWEETIN: That's correct.

25 THE COURT: And that these are lesser

1 included offenses.

2 MR. SWEETIN: Yes.

3 THE COURT: And that the issue of what a
4 defendant if convicted and actually sentenced on that
5 it should be resolved at this stage of the
6 proceeding, not this stage of this proceedings.

7 MR. SWEETIN: That would be the State's
8 position.

9 THE COURT: I'll agree to that just because
10 the State doesn't have to prove its case at the
11 preliminary hearing stage. There was some
12 inconsistencies during parts of the preliminary
13 hearing with victims as to this time frame and there
14 were some statements. I think that -- because it's
15 pled in the alternative, I think the State is
16 permitted to do that.

17 Of course the defendant could not be
18 punished on them at sentencing phase and it will be
19 up to the jury at that point. For the purposes of
20 today's proceeding though I think it's sufficient.
21 And based on representations, just the act alleged.

22 Okay. Any other ones?

23 MS. RADOSTA: No, Your Honor. I would
24 just -- and I honestly can't remember if the State
25 said this -- but based on just what the State pointed

1 out several of the lewdness assaults are alternate to
2 the sex assault charges, for clarification can the
3 State make it clear on the record which counts are in
4 the alternative versus which counts stand alone just
5 regarding lewdness counts 'cause sometimes we
6 honestly can't tell. They charge them so vaguely if
7 this or this or this or this and the date range is so
8 wide that we have no idea which count is an actual
9 count and which is alternative.

10 MR. SWEETIN: I think it's pretty obvious
11 but I can go through them if the Court wants me to.

12 THE COURT: Sure.

13 MR. SWEETIN: If I walk through the counts
14 one at a time, we started out with a lewdness count
15 for fondling the breast. That would stand on its
16 own. That's Count 2; Count 1 conspiracy, Count 2,
17 lewdness. That lewdness stands on its own. In
18 regards to Count 3 and 4, we allege penetration. In
19 Count 3 and Count 4 we allege fondling the genital
20 area with the hand or finger. That would be in
21 alternative to Count 3 so Count 4 would be in the
22 alternative to 3.

23 Count 5 is lewdness using the penis to
24 touch and/or rub or fondle the genital area. That
25 will stand on its own. Count 6 and 7 will be in the

1 alternative. Count 6 is anal intercourse. Count 7
2 is rubbing the penis fondling the anal area with the
3 penis. Count 8 and 9 will also be in the
4 alternative. Count 8 is anal intercourse. Count 9
5 is touching the anal area with the penis.

6 Count 10, lewdness, will stand on its own.
7 That's fondling with I guess the fondling the breasts
8 of the victim with the hand or finger. Counts 11 and
9 12 will be in the alternative. Count 11 is anal
10 intercourse. Count 12 is penis on the anal area.
11 Count 13 lewdness is fondling of the breast which
12 will stand on its own. Count 14 and 15 are in the
13 alternative. Count 14 is fellatio. Count 15 is the
14 penis touching and/or rub or fondle the mouth.

15 Count 16 and 17 are also in the
16 alternative. Count 16 is anal intercourse. Count 17
17 is penis on the anal area. Count 18 will stand on
18 its own. That's the fondling of the breast. Count
19 19 and 20 will be in the alternative. Count 19 is
20 fellatio. Count 20 is touching the penis to the
21 mouth. Count 21 -- and Count 21 will stand on its
22 own. Count 22 will stand on its own. Count 23 will
23 stand on its own. Count 24 will stand on its own.
24 Count 25 will stand on its own. Count 27 will stand
25 on its own. Count 27 will stand on its own.

SENA

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1 Count 28, 29, 30, 31, 32, 33, 34, 35, 36,
2 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49,
3 50, 51 --

4 MS. RADOSTA: Actually can we back up for a
5 second. I'm sorry. 48 and 49 are not -- 48 is
6 pleading causing the finger to be placed in the
7 genital opening and then I'm sorry. Now that I read
8 the content, that's fine. They are separate.

9 MR. SWEETIN: 51, 52, I'm sorry. Up to
10 51. Oh, and 52 and 53 all stand on their own.

11 THE COURT: So 21 to 53 stand on their own,
12 no alternative. Okay.

13 MR. SWEETIN: Count 54 will stand on its
14 own. Count 55 will stand on its own. Count 56 will
15 stand on its own. Count 57 is the aiding. 59, 60
16 will stand on their own. Count 61 and 62 will be in
17 the alternative to each other. That's the very count
18 we were just talking about in regard to T.S. alleged
19 sexual assault victim under 16, and Count 61 sexual
20 assault and 62. And similarly 63 and 64 will be in
21 the alternative.

22 65 and 66 will be in the alternative. 67
23 and 68 will be in the alternative. 69 will stand on
24 its own. 70 will stand on its own. 71, 72, 73, 74,
25 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, will

CHERYL GARDNER, RPR-RMR, CCR 230

1 all stand on their own. Count 87 and 88 will be in
2 the alternative. 87 relates to R.S. and that's anal
3 intercourse. Count 88 is placing the penis on the
4 anal area. Count 89 and 90 will be in the
5 alternative. Again that's anal intercourse, same
6 thing with 91 and 92 will be in the alternative, 93
7 will stand on it is own. 94 will stand on its own.
8 95, 96, 97, 98, 99, 100, 101, 102, 103,
9 104, 105, 106, 107, 108, 109, 110, 111, 112, 113,
10 114, 115, 116, 117, 118, 119, 120, 121, 122, 1232,
11 124 will all stand on their own. I think that's
12 everything.

13 THE COURT: Okay. So 6, 7, 8, 9, 11, 12,
14 14, 15, 16, 17, 19, 20, 51 and 52, 53 and 54, 55, 56,
15 57, 58 are all in the alternative. 87, 88, 89, and
16 90, 91, and 92 are in the alternative. So those are
17 the only ones, correct?

18 MR. SWEETIN: Yes.

19 THE COURT: Anything else?

20 MS. RADOSTA: No. That was it, Judge.

21 Sorry. I didn't realize you were waiting for me.

22 THE COURT: All right. So therefore I do
23 find sufficient evidence to bind the defendant over
24 on the charges. Defendant will make his first
25 appearance in district court lower level

1 December 24th at 10:00 o'clock.

2 MS. RADOSTA: Seriously?

3 THE COURT: You want a later date? 'Cause
4 it's got to be out of custody because of the
5 transcript.

6 MS. RADOSTA: At this point let's leave it
7 on. If you can move it, that would be great. If
8 not, I think we're probably going to have to consult
9 with the courtroom that we are assigned to set this
10 for trial anyway.

11 MR. SWEETIN: Yeah.

12 THE COURT: Do you want to move it past the
13 24th?

14 MS. RADOSTA: If we can.

15 THE COURT: Sure. You can pick a later
16 date. It's just we need the transcript. So when do
17 you want to move it to? You want it the week of
18 December 28th. Do you want it a week in January?

19 MS. RADOSTA: Could we do it the first week
20 of January? I was hoping to not be here the week
21 between Christmas and New Year's.

22 THE COURT: So that Monday.

23 MS. RADOSTA: The first week of January,
24 please.

25 THE COURT: So a particular day, Monday,

1 Tuesday, Wednesday, Thursday, or Friday.

2 MS. RADOSTA: Monday or Tuesday is fine
3 with me.

4 THE COURT: January 4th or January 5th.

5 MS. RADOSTA: Let's do the 5th.

6 THE COURT: January 5th at 10:00 o'clock.

7 Thank you.

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1 AFFIRMATION

2

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4 Pursuant to NRS 239B.030:

5

6 The undersigned does hereby affirm that the
7 preceding transcript of argument and bindover in
8 District Court Case No. C-14-311463-1 does not
9 contain the social security number of any person.

10

11 Dated this 9th day of February, 2016.

12

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16 /s/ Cheryl Gardner, CCR 230, RPR, RMR

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CHERYL GARDNER, RPR-RMR, CCR 230

1 REPORTER'S CERTIFICATE

2

3 State of Nevada)
4 County of Clark) ss

5

6 I, Cheryl Gardner, CCR 230, RPR, RMR, do
7 hereby certify that I took down in Stenotype all of
8 the proceedings had in the before-entitled matter at
9 the time and place indicated and that thereafter said
10 shorthand notes were transcribed into typewriting by
11 me and that the foregoing transcript constitutes a
12 full, true, and accurate record of the proceedings
13 had to the best of my ability.

14 IN WITNESS WHEREOF, I have hereunto set my
15 hand and affixed my signature in the County of Clark,
16 State of Nevada this 9th day of February, 2016.

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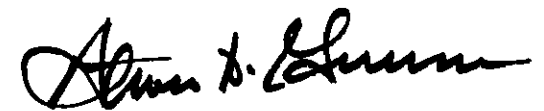
22 /s/ Cheryl Gardner, CCR 230, RPR, RMR

23

24

25

CHERYL GARDNER, RPR-RMR, CCR 230



CLERK OF THE COURT

1 **INFM**
2 **STEVEN B. WOLFSON**
3 **Clark County District Attorney**
4 **Nevada Bar #001565**
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11 **Attorney for Plaintiff**

7 **I.A. 01/05/2016**

8 **10:00 AM**

9 **PUBLIC DEFENDER**

DISTRICT COURT
CLARK COUNTY, NEVADA

9 **THE STATE OF NEVADA,**
10 **Plaintiff,**

11 **-vs-**

12 **CHRISTOPHER SENA,**
13 **#0779849**

14 **Defendant.**

CASE NO: C-15-311453-1

DEPT NO: XIX

I N F O R M A T I O N

15 **STATE OF NEVADA)**
16 **COUNTY OF CLARK) ss.**

17 **STEVEN B. WOLFSON, District Attorney within and for the County of Clark, State**
18 **of Nevada, in the name and by the authority of the State of Nevada, informs the Court:**

19 **That CHRISTOPHER SENA, the Defendant above named, having committed the**
20 **crimes of CONSPIRACY TO COMMIT SEXUAL ASSAULT (Category B Felony - NRS**
21 **200.364, 200.366, 199.480 - NOC 50131), SEXUAL ASSAULT WITH A MINOR UNDER**
22 **FOURTEEN YEARS OF AGE (Category A Felony - NRS 200.364, 200.366 - NOC**
23 **50105), LEWDNESS WITH A CHILD UNDER THE AGE OF 14 (Category A Felony -**
24 **NRS 201.230 - NOC 50975), SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN**
25 **YEARS OF AGE (Category A Felony - NRS 200.364, 200.366 - NOC 50106), INCEST**
26 **(Category A Felony - NRS 201.180 - NOC 50957), OPEN OR GROSS LEWDNESS**
27 **(Category D Felony - NRS 201.210 - NOC 50972), SEXUAL ASSAULT (Category A**
28 **Felony - NRS 200.364, 200.366 - NOC 50095), PREVENTING OR DISSUADING**

1 WITNESS OR VICTIM FROM REPORTING CRIME OR COMMENCING
2 PROSECUTION (Category D Felony - NRS 199.305 - NOC 52996), CHILD ABUSE
3 AND NEGLECT, SEXUAL ABUSE OR EXPLOITATION (Category B Felony - NRS
4 200.508(1) - NOC 55220), POSSESSION OF VISUAL PRESENTATION DEPICTING
5 SEXUAL CONDUCT OF A CHILD (Category B Felony - NRS 200.700, 200.730 - NOC
6 50374), USE OF MINOR IN PRODUCING PORNOGRAPHY (Category A Felony -
7 NRS 200.700, 200.710.1, 200.750 - NOC 50367) and USE OF MINOR UNDER THE AGE
8 OF 14 IN PRODUCING PORNOGRAPHY (Category A Felony - NRS 200.700,
9 200.710.1, 200.750 - NOC 50368) in the manner following:

10 That the said Defendant, on or between May 22, 2001 and June 30, 2014, at and within
11 the County of Clark, State of Nevada, contrary to the form, force and effect of statutes in such
12 cases made and provided, and against the peace and dignity of the State of Nevada,

13 COUNT 1 - CONSPIRACY TO COMMIT SEXAUL ASSAULT

14 did, on or between May 22, 2007 and June 30, 2014, willfully, unlawfully, and
15 feloniously conspire with DEBORAH SENA and/or TERRIE SENA and/or others unknown
16 to commit a sexual assault, by performing those acts described in Counts 46 through 52; 54
17 through 59; 61 through 77; 79 through 85; 95 through 99; 101 through 103 and 105.

18 COUNT 2 - LEWDNESS WITH A CHILD UNDER THE AGE OF 14

19 did, on or between May 22, 2001 and May 21, 2004, then and there, willfully, lewdly,
20 unlawfully, and feloniously commit a lewd or lascivious act upon or with the body, or any part
21 or member thereof, a child, to-wit: A.S., said child being under the age of fourteen years, by
22 said Defendant using his hand(s) and/or finger(s) to touch and/or rub and or fondle the breast(s)
23 and/or area of the breast(s) of the said A.S., with the intent of arousing, appealing to, or
24 gratifying the lust, passions, or sexual desires of said Defendant, or said child.

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1 COUNT 3 - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF
2 AGE

3 did, on or between May 22, 2001 and May 21, 2004, then and there, willfully,
4 unlawfully, and feloniously sexually assault and subject A.S., a child under fourteen years of
5 age, to sexual penetration, to-wit: digital penetration, by said Defendant inserting his hand(s)
6 and/or finger(s) into the genital opening of the said A.S., against the will of the said A.S., or
7 under conditions in which Defendant knew, or should have known, that A.S. was mentally or
8 physically incapable of resisting or understanding the nature of Defendant's conduct.

9 COUNT 4 - LEWDNESS WITH A CHILD UNDER THE AGE OF 14

10 did, on or between May 22, 2001 and May 21, 2004, then and there, willfully, lewdly,
11 unlawfully, and feloniously commit a lewd or lascivious act upon or with the body, or any part
12 or member thereof, a child, to-wit: A.S., said child being under the age of fourteen years, by
13 said Defendant using his hand(s) and/or finger(s) to touch and/or rub and or fondle the genital
14 area of the said A.S., with the intent of arousing, appealing to, or gratifying the lust, passions,
15 or sexual desires of said Defendant, or said child.

16 COUNT 5 - LEWDNESS WITH A CHILD UNDER THE AGE OF 14

17 did, on or between May 22, 2001 and May 21, 2004, then and there, willfully, lewdly,
18 unlawfully, and feloniously commit a lewd or lascivious act upon or with the body, or any part
19 or member thereof, a child, to-wit: A.S., said child being under the age of fourteen years, by
20 said Defendant using his penis to touch and/or rub and/or fondle the genital area of the said
21 A.S., with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desires
22 of said Defendant, or said child.

23 COUNT 6 - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF
24 AGE

25 did, on or between May 22, 2001 and May 21, 2004, then and there, willfully,
26 unlawfully, and feloniously sexually assault and subject A.S., a child under fourteen years of
27 age, to sexual penetration, to-wit: anal intercourse, by said Defendant inserting his penis into
28 the anal opening of the said A.S., against the will of the said A.S., or under conditions in which

1 Defendant knew, or should have known, that A.S. was mentally or physically incapable of
2 resisting or understanding the nature of Defendant's conduct.

3 COUNT 7 - LEWDNESS WITH A CHILD UNDER THE AGE OF 14

4 did, on or between May 22, 2001 and May 21, 2004, then and there, willfully, lewdly,
5 unlawfully, and feloniously commit a lewd or lascivious act upon or with the body, or any part
6 or member thereof, a child, to-wit: A.S., said child being under the age of fourteen years, by
7 said Defendant using his penis to touch and/or rub and or fondle the anal area of the said A.S.,
8 with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desires of
9 said Defendant, or said child.

10 COUNT 8 - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF
11 AGE

12 did, on or between May 22, 2001 and May 21, 2004, then and there, willfully,
13 unlawfully, and feloniously sexually assault and subject A.S., a child under fourteen years of
14 age, to sexual penetration, to-wit: anal intercourse, by said Defendant inserting his penis into
15 the anal opening of the said A.S., against the will of the said A.S., or under conditions in which
16 Defendant knew, or should have known, that A.S. was mentally or physically incapable of
17 resisting or understanding the nature of Defendant's conduct.

18 COUNT 9 - LEWDNESS WITH A CHILD UNDER THE AGE OF 14

19 did, on or between May 22, 2001 and May 21, 2004, then and there, willfully, lewdly,
20 unlawfully, and feloniously commit a lewd or lascivious act upon or with the body, or any part
21 or member thereof, a child, to-wit: A.S., said child being under the age of fourteen years, by
22 said Defendant using his penis to touch and/or rub and or fondle the anal and/or genital area
23 of the said A.S., with the intent of arousing, appealing to, or gratifying the lust, passions, or
24 sexual desires of said Defendant, or said child.

25 COUNT 10 - LEWDNESS WITH A CHILD UNDER THE AGE OF 14

26 did, on or between May 22, 2001 and May 21, 2004, then and there, willfully, lewdly,
27 unlawfully, and feloniously commit a lewd or lascivious act upon or with the body, or any part
28 or member thereof, a child, to-wit: A.S., said child being under the age of fourteen years, by

1 said Defendant using his hand(s) and/or finger(s) to touch and/or rub and/or fondle the
2 breast(s) of the said A.S., with the intent of arousing, appealing to, or gratifying the lust,
3 passions, or sexual desires of said Defendant, or said child.

4 COUNT 11 - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF
5 AGE

6 did, on or between May 22, 2001 and May 21, 2004, then and there, willfully,
7 unlawfully, and feloniously sexually assault and subject A.S., a child under fourteen years of
8 age, to sexual penetration, to-wit: anal intercourse, by said Defendant inserting his penis into
9 the anal opening of the said A.S., against the will of the said A.S., or under conditions in which
10 Defendant knew, or should have known, that A.S. was mentally or physically incapable of
11 resisting or understanding the nature of Defendant's conduct.

12 COUNT 12 - LEWDNESS WITH A CHILD UNDER THE AGE OF 14

13 did, on or between May 22, 2001 and May 21, 2004, then and there, willfully, lewdly,
14 unlawfully, and feloniously commit a lewd or lascivious act upon or with the body, or any part
15 or member thereof, a child, to-wit: A.S., said child being under the age of fourteen years, by
16 said Defendant using his penis to touch and/or rub and or fondle the anal area of the said A.S.,
17 with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desires of
18 said Defendant, or said child.

19 COUNT 13 - LEWDNESS WITH A CHILD UNDER THE AGE OF 14

20 did, on or between May 22, 2001 and May 21, 2004, then and there, willfully, lewdly,
21 unlawfully, and feloniously commit a lewd or lascivious act upon or with the body, or any part
22 or member thereof, a child, to-wit: A.S., said child being under the age of fourteen years, by
23 said Defendant using his hand(s) and/or finger(s) to touch and/or rub and/or fondle the
24 breast(s) of the said A.S., with the intent of arousing, appealing to, or gratifying the lust,
25 passions, or sexual desires of said Defendant, or said child.

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1 COUNT 14 - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF
2 AGE

3 did, on or between May 22, 2001 and May 21, 2004, then and there, willfully,
4 unlawfully, and feloniously sexually assault and subject A.S., a child under fourteen years of
5 age, to sexual penetration, to-wit: fellatio, by said Defendant causing the said A.S. to have the
6 penis of the said Defendant on and/or in the mouth of the said A.S., against the will of the said
7 A.S., or under conditions in which Defendant knew, or should have known, that A.S. was
8 mentally or physically incapable of resisting or understanding the nature of Defendant's
9 conduct.

10 COUNT 15 - LEWDNESS WITH A CHILD UNDER THE AGE OF 14

11 did, on or between May 22, 2001 and May 21, 2004, then and there, willfully, lewdly,
12 unlawfully, and feloniously commit a lewd or lascivious act upon or with the body, or any part
13 or member thereof, a child, to-wit: A.S., said child being under the age of fourteen years, by
14 said Defendant using his penis to touch and/or rub and/or fondle the mouth of the said A.S.,
15 with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desires of
16 said Defendant, or said child.

17 COUNT 16 - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF
18 AGE

19 did, on or between May 22, 2001 and May 21, 2004, then and there, willfully,
20 unlawfully, and feloniously sexually assault and subject A.S., a child under fourteen years of
21 age, to sexual penetration, to-wit: anal intercourse, by said Defendant inserting his penis into
22 the anal opening of the said A.S., against the will of the said A.S., or under conditions in which
23 Defendant knew, or should have known, that A.S. was mentally or physically incapable of
24 resisting or understanding the nature of Defendant's conduct.

25 COUNT 17 - LEWDNESS WITH A CHILD UNDER THE AGE OF 14

26 did, on or between May 22, 2001 and May 21, 2004, then and there, willfully, lewdly,
27 unlawfully, and feloniously commit a lewd or lascivious act upon or with the body, or any part
28 or member thereof, a child, to-wit: A.S., said child being under the age of fourteen years, by

1 said Defendant using his penis to touch and/or rub and or fondle the anal area of the said A.S.,
2 with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desires of
3 said Defendant, or said child.

4 COUNT 18 - LEWDNESS WITH A CHILD UNDER THE AGE OF 14

5 did, on or between May 22, 2001 and May 21, 2004, then and there, willfully, lewdly,
6 unlawfully, and feloniously commit a lewd or lascivious act upon or with the body, or any part
7 or member thereof, a child, to-wit: A.S., said child being under the age of fourteen years, by
8 said Defendant using his hand(s) and/or finger(s) to touch and/or rub and/or fondle the
9 breast(s) of the said A.S., with the intent of arousing, appealing to, or gratifying the lust,
10 passions, or sexual desires of said Defendant, or said child.

11 COUNT 19 - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF
12 AGE

13 did, on or between May 22, 2001 and May 21, 2004, then and there, willfully,
14 unlawfully, and feloniously sexually assault and subject A.S., a child under fourteen years of
15 age, to sexual penetration, to-wit: fellatio, by said Defendant causing the said A.S. to have the
16 penis of the said Defendant on and/or in the mouth of the said A.S., against the will of the said
17 A.S., or under conditions in which Defendant knew, or should have known, that A.S. was
18 mentally or physically incapable of resisting or understanding the nature of Defendant's
19 conduct.

20 COUNT 20 - LEWDNESS WITH A CHILD UNDER THE AGE OF 14

21 did, on or between May 22, 2001 and May 21, 2004, then and there, willfully, lewdly,
22 unlawfully, and feloniously commit a lewd or lascivious act upon or with the body, or any part
23 or member thereof, a child, to-wit: A.S., said child being under the age of fourteen years, by
24 said Defendant using his penis to touch and/or rub and/or fondle the mouth of the said A.S.,
25 with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desires of
26 said Defendant, or said child.

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1 COUNT 21 - SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE

2 did, on or between May 22, 2004 and May 21, 2006, then and there, willfully,
3 unlawfully, and feloniously sexually assault and subject A.S., a child under sixteen years of
4 age, to sexual penetration, to-wit: sexual intercourse, by said Defendant inserting his penis
5 into the genital opening of the said A.S., against the will of the said A.S., or under conditions
6 in which Defendant knew, or should have known, that the said victim was mentally or
7 physically incapable of resisting or understanding the nature of Defendant's conduct.

8 COUNT 22 - INCEST

9 did, on or between May 22, 2004 and May 21, 2006, then and there willfully,
10 unlawfully, and feloniously commit fornication or adultery with and/or on A.S., the Daughter
11 of said Defendant, the Defendant and A.S. being within the degree of consanguinity within
12 which marriages are declared by law to be incestuous and void; the Defendant committing the
13 crime by engaging in sexual intercourse with the said A.S.

14 COUNT 23 - SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE

15 did, on or between May 22, 2004 and May 21, 2006, then and there, willfully,
16 unlawfully, and feloniously sexually assault and subject A.S., a child under sixteen years of
17 age, to sexual penetration, to-wit: anal intercourse, by said Defendant inserting his penis into
18 the anal opening of the said A.S., against the will of the said A.S., or under conditions in which
19 Defendant knew, or should have known, that the said victim was mentally or physically
20 incapable of resisting or understanding the nature of Defendant's conduct.

21 COUNT 24 - OPEN OR GROSS LEWDNESS

22 did, on or between May 22, 2004 and May 21, 2006, willfully and unlawfully commit
23 an act of open or gross lewdness by said Defendant using his hand(s) and/or finger(s) to touch
24 and/or rub and/or fondle the breast(s) of A.S.

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1 COUNT 25 - SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF
2 AGE

3 did, on or between May 22, 2004 and May 21, 2006, then and there, willfully,
4 unlawfully, and feloniously sexually assault and subject A.S., a child under sixteen years of
5 age, to sexual penetration, to-wit: fellatio, by said Defendant causing the said A.S. to have the
6 penis of the said Defendant on and/or in the mouth of the said A.S., against the will of the said
7 A.S., or under conditions in which Defendant knew, or should have known, that A.S. was
8 mentally or physically incapable of resisting or understanding the nature of Defendant's
9 conduct.

10 COUNT 26 - SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE

11 did, on or between May 22, 2004 and May 21, 2006, then and there, willfully,
12 unlawfully, and feloniously sexually assault and subject A.S., a child under sixteen years of
13 age, to sexual penetration, to-wit: sexual intercourse, by said Defendant inserting his penis
14 into the genital opening of the said A.S., against the will of the said A.S., or under conditions
15 in which Defendant knew, or should have known, that the said victim was mentally or
16 physically incapable of resisting or understanding the nature of Defendant's conduct.

17 COUNT 27 - INCEST

18 did, on or between May 22, 2004 and May 21, 2006, then and there willfully,
19 unlawfully, and feloniously commit fornication or adultery with and/or on A.S., the Daughter
20 of said Defendant, the Defendant and A.S. being within the degree of consanguinity within
21 which marriages are declared by law to be incestuous and void; the Defendant committing the
22 crime by engaging in a sexual intercourse with the said A.S.

23 COUNT 28 - SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE

24 did, on or between May 22, 2004 and May 21, 2006, then and there, willfully,
25 unlawfully, and feloniously sexually assault and subject A.S., a child under sixteen years of
26 age, to sexual penetration, to-wit: anal intercourse, by said Defendant inserting his penis into
27 the anal opening of the said A.S., against the will of the said A.S., or under conditions in which
28 Defendant knew, or should have known, that the said victim was mentally or physically

incapable of resisting or understanding the nature of Defendant's conduct.

COUNT 29 - OPEN OR GROSS LEWDNESS

did, on or between May 22, 2004 and May 21, 2006, willfully and unlawfully commit an act of open or gross lewdness by said Defendant using his hand(s) and/or finger(s) to touch and/or rub and/or fondle the breast(s) of A.S.

COUNT 30 - SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE

did, on or between May 22, 2004 and May 21, 2006, then and there, willfully, unlawfully, and feloniously sexually assault and subject A.S., a child under sixteen years of age, to sexual penetration, to-wit: fellatio, by said Defendant causing the said A.S. to have the penis of the said Defendant on and/or in the mouth of the said A.S., against the will of the said A.S., or under conditions in which Defendant knew, or should have known, that A.S. was mentally or physically incapable of resisting or understanding the nature of Defendant's conduct.

COUNT 31 - SEXUAL ASSAULT

did, on or between May 22, 2006 and August 30, 2014, then and there willfully, unlawfully, and feloniously sexually assault and subject A.S. to sexual penetration, to-wit: sexual intercourse, by said Defendant inserting his penis into the genital opening of the said A.S., against the will of the said A.S., or under conditions in which Defendant knew, or should have known, that A.S. was mentally or physically incapable of resisting or understanding the nature of Defendant's conduct.

COUNT 32 - INCEST

did, on or between May 22, 2006 and August 30, 2014, then and there willfully, unlawfully, and feloniously commit fornication or adultery with and/or on A.S., the Daughter of said Defendant, the Defendant and A.S. being within the degree of consanguinity within which marriages are declared by law to be incestuous and void; the Defendant committing the crime by engaging in a sexual intercourse with the said A.S.

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1 COUNT 33 - SEXUAL ASSAULT

2 did, on or between May 22, 2006 and August 30, 2014, then and there willfully,
3 unlawfully, and feloniously sexually assault and subject A.S. to sexual penetration, to-wit: anal
4 intercourse, by said Defendant inserting his penis into the anal opening of the said A.S., against
5 the will of the said A.S., or under conditions in which Defendant knew, or should have known,
6 that A.S. was mentally or physically incapable of resisting or understanding the nature of
7 Defendant's conduct.

8 COUNT 34 - OPEN OR GROSS LEWDNESS

9 did, on or between May 22, 2006 and August 30, 2014, willfully and unlawfully
10 commit an act of open or gross lewdness by said Defendant using his hand(s) and/or finger(s)
11 to touch and/or rub and/or fondle the breast(s) of A.S.

12 COUNT 35 - SEXUAL ASSAULT

13 did, on or between May 22, 2004 and May 21, 2006, then and there, willfully,
14 unlawfully, and feloniously sexually assault and subject A.S., to sexual penetration, to-wit:
15 fellatio, by said Defendant causing the said A.S. to have the penis of the said Defendant on
16 and/or in the mouth of the said A.S., against the will of the said A.S., or under conditions in
17 which Defendant knew, or should have known, that A.S. was mentally or physically incapable
18 of resisting or understanding the nature of Defendant's conduct.

19 COUNT 36 - SEXUAL ASSAULT

20 did, on or between May 22, 2006 and August 30, 2014, then and there willfully,
21 unlawfully, and feloniously sexually assault and subject A.S. to sexual penetration, to-wit:
22 sexual intercourse, by said Defendant inserting his penis into the genital opening of the said
23 A.S., against the will of the said A.S., or under conditions in which Defendant knew, or should
24 have known, that A.S. was mentally or physically incapable of resisting or understanding the
25 nature of Defendant's conduct.

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1 COUNT 37 - INCEST

2 did, on or between May 22, 2006 and August 30, 2014, then and there willfully,
3 unlawfully, and feloniously commit fornication or adultery with and/or on A.S., the Daughter
4 of said Defendant, the Defendant and A.S. being within the degree of consanguinity within
5 which marriages are declared by law to be incestuous and void; the Defendant committing the
6 crime by engaging in a sexual intercourse with the said A.S.

7 COUNT 38 - SEXUAL ASSAULT

8 did, on or between May 22, 2006 and August 30, 2014, then and there willfully,
9 unlawfully, and feloniously sexually assault and subject A.S. to sexual penetration, to-wit: anal
10 intercourse, by said Defendant inserting his penis into the anal opening of the said A.S., against
11 the will of the said A.S., or under conditions in which Defendant knew, or should have known,
12 that A.S. was mentally or physically incapable of resisting or understanding the nature of
13 Defendant's conduct.

14 COUNT 39 - OPEN OR GROSS LEWDNESS

15 did, on or between May 22, 2006 and August 30, 2014, willfully and unlawfully
16 commit an act of open or gross lewdness by said Defendant using his hand(s) and/or finger(s)
17 to touch and/or rub and/or fondle the breast(s) of A.S.

18 COUNT 40 - SEXUAL ASSAULT

19 did, on or between May 22, 2004 and May 21, 2006, then and there, willfully,
20 unlawfully, and feloniously sexually assault and subject A.S., to sexual penetration, to-wit:
21 fellatio, by said Defendant causing the said A.S. to have the penis of the said Defendant on
22 and/or in the mouth of the said A.S., against the will of the said A.S., or under conditions in
23 which Defendant knew, or should have known, that A.S. was mentally or physically incapable
24 of resisting or understanding the nature of Defendant's conduct.

25 COUNT 41 - SEXUAL ASSAULT

26 did, on or between May 22, 2006 and August 30, 2014, then and there willfully,
27 unlawfully, and feloniously sexually assault and subject A.S. to sexual penetration, to-wit:
28 sexual intercourse, by said Defendant inserting his penis into the genital opening of the said

1 A.S., against the will of the said A.S., or under conditions in which Defendant knew, or should
2 have known, that A.S. was mentally or physically incapable of resisting or understanding the
3 nature of Defendant's conduct.

4 COUNT 42 - INCEST

5 did, on or between May 22, 2006 and August 30, 2014, then and there willfully,
6 unlawfully, and feloniously commit fornication or adultery with and/or on A.S., the Daughter
7 of said Defendant, the Defendant and A.S. being within the degree of consanguinity within
8 which marriages are declared by law to be incestuous and void; the Defendant committing the
9 crime by engaging in a sexual intercourse with the said A.S.

10 COUNT 43 - SEXUAL ASSAULT

11 did, on or between May 22, 2006 and August 30, 2014, then and there willfully,
12 unlawfully, and feloniously sexually assault and subject A.S. to sexual penetration, to-wit: anal
13 intercourse, by said Defendant inserting his penis into the anal opening of the said A.S., against
14 the will of the said A.S., or under conditions in which Defendant knew, or should have known,
15 that A.S. was mentally or physically incapable of resisting or understanding the nature of
16 Defendant's conduct.

17 COUNT 44 - OPEN OR GROSS LEWDNESS

18 did, on or between May 22, 2006 and August 30, 2014, willfully and unlawfully
19 commit an act of open or gross lewdness by said Defendant using his hand(s) and/or finger(s)
20 to touch and/or rub and/or fondle the breast(s) of A.S.

21 COUNT 45 - SEXUAL ASSAULT

22 did, on or between May 22, 2004 and May 21, 2006, then and there, willfully,
23 unlawfully, and feloniously sexually assault and subject A.S., to sexual penetration, to-wit:
24 fellatio, by said Defendant causing the said A.S. to have the penis of the said Defendant on
25 and/or in the mouth of the said A.S., against the will of the said A.S., or under conditions in
26 which Defendant knew, or should have known, that A.S. was mentally or physically incapable
27 of resisting or understanding the nature of Defendant's conduct.

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1 COUNT 46 - SEXUAL ASSAULT

2 did, on or between May 22, 2007 and June 30, 2008, then and there willfully,
3 unlawfully, and feloniously sexually assault and subject A.S. to sexual penetration, to-wit:
4 sexual intercourse, by said Defendant inserting his penis into the genital opening of the said
5 A.S., against the will of the said A.S., or under conditions in which Defendant knew, or should
6 have known, that A.S. was mentally or physically incapable of resisting or understanding the
7 nature of Defendant's conduct; Defendant being liable under one or more of the following
8 principles of criminal liability: (1) by Defendant directly performing such acts; and/or (2) by
9 Defendant acting with DEBORAH SENA and/or others unknown pursuant to a conspiracy
10 with DEBORAH SENA and/or others unknown in performing such acts; and/or (3) by
11 Defendant and DEBORAH SENA and/or others unknown aiding and abetting each other by
12 counseling, encouraging, inducing, or otherwise procuring each other to commit such acts.

13 COUNT 47 - INCEST

14 did, on or between May 22, 2007 and June 30, 2008, willfully, unlawfully, and
15 feloniously commit fornication or adultery with and/or on A.S., the daughter of and A.S. being
16 within the degree of consanguinity within which marriages are declared by law to be
17 incestuous and void; the Defendant committing the crime by engaging in sexual intercourse
18 with said A.S.; Defendant being liable under one or more of the following principles of
19 criminal liability: (1) by Defendant directly performing such acts; and/or (2) by Defendant
20 acting with DEBORAH SENA and/or others unknown pursuant to a conspiracy with
21 DEBORAH SENA and/or others unknown in performing such acts; and/or (3) by Defendant
22 and DEBORAH SENA and/or others unknown aiding and abetting each other by counseling,
23 encouraging, inducing, or otherwise procuring each other to commit such acts.

24 COUNT 48 - SEXUAL ASSAULT

25 did, on or between May 22, 2007 and June 30, 2008, then and there willfully,
26 unlawfully, and feloniously sexually assault and subject A.S. to sexual penetration, to-wit:
27 digital penetration, by said Defendant causing the finger(s) of the said A.S. to be placed into
28 the genital opening of DEBORAH SENA, against the will of the said A.S., or under conditions

1 in which Defendant knew, or should have known, that A.S. was mentally or physically
2 incapable of resisting or understanding the nature of Defendant's conduct; Defendant being
3 liable under one or more of the following principles of criminal liability: (1) by Defendant
4 directly performing such acts; and/or (2) by Defendant acting with DEBORAH SENA and/or
5 others unknown pursuant to a conspiracy with DEBORAH SENA and/or others unknown in
6 performing such acts; and/or (3) by Defendant and DEBORAH SENA and/or others unknown
7 aiding and abetting each other by counseling, encouraging, inducing, or otherwise procuring
8 each other to commit such acts.

9 COUNT 49 - OPEN OR GROSS LEWDNESS

10 did, on or between May 22, 2007 and June 30, 2008, then and there willfully and
11 unlawfully commit an act of open or gross lewdness by said Defendant assisting and/or causing
12 DEBORAH SENA to use her hand(s) and/or finger(s) to touch and/or rub and/or fondle the
13 breast(s) and/or genital area of A.S.; Defendant being liable under one or more of the following
14 principles of criminal liability: (1) by Defendant directly performing such acts; and/or (2) by
15 Defendant acting with DEBORAH SENA and/or others unknown pursuant to a conspiracy
16 with DEBORAH SENA and/or others unknown in performing such acts; and/or (3) by
17 Defendant and DEBORAH SENA and/or others unknown aiding and abetting each other by
18 counseling, encouraging, inducing, or otherwise procuring each other to commit such acts.

19 COUNT 50 - OPEN OR GROSS LEWDNESS

20 did, on or between May 22, 2007 and June 30, 2008, then and there willfully and
21 unlawfully commit an act of open or gross lewdness by said Defendant assisting and/or causing
22 A.S. to use her hand(s) and/or finger(s) to touch and/or rub and/or fondle the breast(s) of
23 DEBORAH SENA; Defendant being liable under one or more of the following principles of
24 criminal liability: (1) by Defendant directly performing such acts; and/or (2) by Defendant
25 acting with DEBORAH SENA and/or others unknown pursuant to a conspiracy with
26 DEBORAH SENA and/or others unknown in performing such acts; and/or (3) by Defendant
27 and DEBORAH SENA and/or others unknown aiding and abetting each other by counseling,
28 encouraging, inducing, or otherwise procuring each other to commit such acts.

1 COUNT 51 - OPEN OR GROSS LEWDNESS

2 did, on or between May 22, 2007 and June 30, 2008, then and there willfully and
3 unlawfully commit an act of open or gross lewdness by said Defendant assisting and/or causing
4 A.S. to use her hand(s) and/or finger(s) to touch and/or rub and/or fondle the genital area of
5 the said A.S.; Defendant being liable under one or more of the following principles of criminal
6 liability: (1) by Defendant directly performing such acts; and/or (2) by Defendant acting with
7 DEBORAH SENA and/or others unknown pursuant to a conspiracy with DEBORAH SENA
8 and/or others unknown in performing such acts; and/or (3) by Defendant and DEBORAH
9 SENA and/or others unknown aiding and abetting each other by counseling, encouraging,
10 inducing, or otherwise procuring each other to commit such acts.

11 COUNT 52 - SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE

12 did, on or between May 22, 2004 and May 21, 2006, then and there willfully,
13 unlawfully, and feloniously sexually assault and subject A.S., a child under sixteen years of
14 age, to sexual penetration, to-wit: anal intercourse, by said Defendant inserting his penis into
15 the anal opening of the said A.S., against the will of the said A.S., or under conditions in which
16 Defendant knew, or should have known, that A.S. was mentally or physically incapable of
17 resisting or understanding the nature of Defendant's conduct; Defendant being liable under one
18 or more of the following principles of criminal liability: (1) by Defendant directly performing
19 such acts; and/or (2) by Defendant acting with TERRIE SENA and/or others unknown
20 pursuant to a conspiracy with TERRIE SENA and/or others unknown in performing such acts;
21 and/or (3) by Defendant and TERRIE SENA and/or others unknown aiding and abetting each
22 other by counseling, encouraging, inducing, or otherwise procuring each other to commit such
23 acts.

24 COUNT 53 - PREVENTING OR DISSUADING WITNESS OR VICTIM FROM
25 REPORTING CRIME OR COMMENCING PROSECUTION

26 did, on or about May 22, 2001 and June 30, 2014, then and there, willfully, unlawfully,
27 and feloniously, by intimidation or threats, prevent or dissuade, or hinder or delay A.S., from
28 reporting a crime to anyone by said Defendant telling the said A.S. that the said Defendant

1 would kill and/or break the legs of the said A.S. and/or have A.S. taken away and sent to
2 juvenile detention if the said A.S. told anyone of the sexual acts the said A.S. was forced to
3 commit or have committed upon the said A.S.

4 COUNT 54 - SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE

5 did, on or between December 2, 2008 and December 1, 2010, then and there willfully,
6 unlawfully, and feloniously sexually assault and subject T.S., a child under sixteen years of
7 age, to sexual penetration, to-wit: fellatio, by said Defendant assisting and/or causing the penis
8 of the said T.S. to be placed on and/or in the mouth of DEBORAH SENA, against the will of
9 the said T.S., or under conditions in which Defendant knew, or should have known, that T.S.
10 was mentally or physically incapable of resisting or understanding the nature of Defendant's
11 conduct; Defendant being liable under one or more of the following principles of criminal
12 liability: (1) by Defendant directly performing such acts; and/or (2) by Defendant acting with
13 DEBORAH SENA and/or others unknown pursuant to a conspiracy with DEBORAH SENA
14 and/or others unknown in performing such acts; and/or (3) by Defendant and DEBORAH
15 SENA and/or others unknown aiding and abetting each other by counseling, encouraging,
16 inducing, or otherwise procuring each other to commit such acts.

17 COUNT 55 - CHILD ABUSE, NEGLECT, OR ENDANGERMENT - SEXUAL ABUSE

18 did, on or between December 2, 2008 and December 1, 2010, willfully, unlawfully,
19 and feloniously cause a child under the age of 18 years, to-wit: T.S. to suffer unjustifiable
20 physical pain or mental suffering as a result of abuse or neglect, to wit: sexual abuse, and/or
21 cause T.S. to be placed in a situation where the said T.S. might have suffered unjustifiable
22 physical pain or mental suffering as a result of abuse or neglect, to wit: sexual abuse, by said
23 Defendant causing and/or directing and/or encouraging the said T.S. to wash said DEBORAH
24 SENA as said DEBORAH SENA washed the said T.S. ; Defendant being liable under one or
25 more of the following principles of criminal liability: (1) by Defendant directly performing
26 such acts; and/or (2) by Defendant acting with DEBORAH SENA and/or others unknown
27 pursuant to a conspiracy with DEBORAH SENA and/or others unknown in performing such
28 acts; and/or (3) by Defendant and DEBORAH SENA and/or others unknown aiding and

1 abetting each other by counseling, encouraging, inducing, or otherwise procuring each other
2 to commit such acts.

3 COUNT 56 - OPEN OR GROSS LEWDNESS

4 did, on or between December 2, 2008 and December 1, 2010, willfully and unlawfully
5 commit an act of open or gross lewdness by said Defendant assisting and/or causing
6 DEBORAH SENA to get into a shower naked with T.S. and/or by said Defendant assisting
7 and/or causing DEBORAH SENA to cause and/or direct and/or encouraging the said T.S. to
8 wash DEBORAH SENA as DEBORAH SENA washed the said T.S.; Defendant being liable
9 under one or more of the following principles of criminal liability: (1) by Defendant directly
10 performing such acts; and/or (2) by Defendant acting with DEBORAH SENA and/or others
11 unknown pursuant to a conspiracy with DEBORAH SENA and/or others unknown in
12 performing such acts; and/or (3) by Defendant and DEBORAH SENA and/or others unknown
13 aiding and abetting each other by counseling, encouraging, inducing, or otherwise procuring
14 each other to commit such acts.

15 COUNT 57 - CHILD ABUSE, NEGLECT, OR ENDANGERMENT - SEXUAL ABUSE

16 did, on or between December 2, 2008 and December 1, 2010, willfully, unlawfully,
17 and feloniously cause a child under the age of 18 years, to-wit: T.S. to suffer unjustifiable
18 physical pain or mental suffering as a result of abuse or neglect, to wit: sexual abuse, and/or
19 cause T.S. to be placed in a situation where the said T.S. might have suffered unjustifiable
20 physical pain or mental suffering as a result of abuse or neglect, to wit: sexual abuse, by
21 Defendant assisting and/or causing DEBORAH SENA to use her hand(s) and/or finger(s) to
22 touch and/or rub and/or fondle the penis of T.S., and/or having the penis of the said T.S.
23 between the legs and/or on the genital area of DEBORAH SENA; Defendant being liable
24 under one or more of the following principles of criminal liability: (1) by Defendant directly
25 performing such acts; and/or (2) by Defendant acting with DEBORAH SENA and/or others
26 unknown pursuant to a conspiracy with DEBORAH SENA and/or others unknown in
27 performing such acts; and/or (3) by Defendant and DEBORAH SENA and/or others unknown
28 aiding and abetting each other by counseling, encouraging, inducing, or otherwise procuring

1 each other to commit such acts.

2 COUNT 58 - OPEN OR GROSS LEWDNESS

3 did, on or between December 2, 2008 and December 1, 2010, wilfully and unlawfully
4 commit an act of open or gross lewdness by Defendant assiting and/or causing DEBORAH
5 SENA to use her hand(s) and/or finger(s) to touch and/or rub and/or fondle the penis of T.S.,
6 and/or having the penis of the said T.S. between the legs and/or on the genital area of
7 DEBORAH SENA; Defendant being liable under one or more of the following principles of
8 criminal liability: (1) by Defendant directly performing such acts; and/or (2) by Defendant
9 acting with DEBORAH SENA and/or others unknown pursuant to a conspiracy with
10 DEBORAH SENA and/or others unknown in performing such acts; and/or (3) by Defendant
11 and DEBORAH SENA and/or others unknown aiding and abetting each other by counseling,
12 encouraging, inducing, or otherwise procuring each other to commit such acts.

13 COUNT 59 - USE OF MINOR IN PRODUCING PORNOGRAPHY

14 did, on or between December 2, 2008 and December 1, 2010, then and there willfully,
15 unlawfully, feloniously and knowingly, use, encourage, entice or permit T.S., a minor under
16 the age of 18, to simulate or engage in, or assist others to simulate or engage in sexual conduct,
17 and/or be the subject of a sexual portrayal, to-wit: DEBORAH SENA and T.S. showering
18 together in the nude, for the purpose of producing a pornographic performance and that said
19 performance was video recorded by said Defendant; Defendant being liable under one or more
20 of the following principles of criminal liability: (1) by Defendant directly performing such
21 acts; and/or (2) by Defendant acting with DEBORAH SENA and/or others unknown pursuant
22 to a conspiracy with DEBORAH SENA and/or others unknown in performing such acts;
23 and/or (3) by Defendant and DEBORAH SENA and/or others unknown aiding and abetting
24 each other by counseling, encouraging, inducing, or otherwise procuring each other to commit
25 such acts.

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1 COUNT 60 - POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL
2 CONDUCT OF A CHILD

3 did, on or about the 18th day of September, 2014, then and there, feloniously,
4 knowingly and willfully have in his possession a film, photograph, or other visual presentation
5 depicting a child under the age of 16 years of age to simulate or engage in sexual conduct
6 and/or be the subject of a sexual portrayal, to-wit: DEBORAH SENA and T.S., a minor under
7 the age of sixteen (16) showering together in the nude.

8 COUNT 61 - SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE

9 did, on or between December 2, 2008 and December 1, 2010, then and there willfully,
10 unlawfully, and feloniously sexually assault and subject T.S., a child under sixteen years of
11 age, to sexual penetration, to-wit: fellatio, by said Defendant assisting and/or causing
12 DEBORAH SENA to have the penis of the said T.S. on and/or in the mouth of DEBORAH
13 SENA, against the will of the said T.S., or under conditions in which Defendant knew, or
14 should have known, that T.S. was mentally or physically incapable of resisting or
15 understanding the nature of Defendant's conduct; Defendant being liable under one or more of
16 the following principles of criminal liability: (1) by Defendant directly performing such acts;
17 and/or (2) by Defendant acting with DEBORAH SENA and/or others unknown pursuant to a
18 conspiracy with DEBORAH SENA and/or others unknown in performing such acts; and/or
19 (3) by Defendant and DEBORAH SENA and/or others unknown aiding and abetting each
20 other by counseling, encouraging, inducing, or otherwise procuring each other to commit such
21 acts.

22 COUNT 62 - SEXUAL ASSAULT

23 did, on or between December 2, 2008 and December 1, 2012, then and there willfully,
24 unlawfully, and feloniously sexually assault and subject T.S. to sexual penetration, to-wit:
25 fellatio, by said Defendant assisting and/or causing DEBORAH SENA to have the penis of
26 the said T.S. on and/or in the mouth of DEBORAH SENA, against the will of the said T.S., or
27 under conditions in which Defendant knew, or should have known, that T.S. was mentally or
28 physically incapable of resisting or understanding the nature of Defendant's conduct;

1 Defendant being liable under one or more of the following principles of criminal liability: (1)
2 by Defendant directly performing such acts; and/or (2) by Defendant acting with DEBORAH
3 SENA and/or others unknown pursuant to a conspiracy with DEBORAH SENA and/or others
4 unknown in performing such acts; and/or (3) by Defendant and DEBORAH SENA and/or
5 others unknown aiding and abetting each other by counseling, encouraging, inducing, or
6 otherwise procuring each other to commit such acts.

7 COUNT 63 - SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE

8 did, on or between December 2, 2008 and December 1, 2010, then and there willfully,
9 unlawfully, and feloniously sexually assault and subject T.S., a child under sixteen years of
10 age, to sexual penetration, to-wit: sexual intercourse, by said Defendant assisting and/or
11 causing DEBORAH SENA to have the penis of the said T.S. in the genital opening of
12 DEBORAH SENA, against the will of the said T.S., or under conditions in which Defendant
13 knew, or should have known, that T.S. was mentally or physically incapable of resisting or
14 understanding the nature of Defendant's conduct; Defendant being liable under one or more of
15 the following principles of criminal liability: (1) by Defendant directly performing such acts;
16 and/or (2) by Defendant acting with DEBORAH SENA and/or others unknown pursuant to a
17 conspiracy with DEBORAH SENA and/or others unknown in performing such acts; and/or
18 (3) by Defendant and DEBORAH SENA and/or others unknown aiding and abetting each
19 other by counseling, encouraging, inducing, or otherwise procuring each other to commit such
20 acts.

21 COUNT 64 - SEXUAL ASSAULT

22 did, on or between December 2, 2008 and December 1, 2012, then and there willfully,
23 unlawfully, and feloniously sexually assault and subject T.S. to sexual penetration, to-wit:
24 sexual intercourse, by said Defendant assisting and/or causing DEBORAH SENA to have the
25 penis of the said T.S. in the genital opening of DEBORAH SENA, against the will of the said
26 T.S., or under conditions in which Defendant knew, or should have known, that T.S. was
27 mentally or physically incapable of resisting or understanding the nature of Defendant's
28 conduct; Defendant being liable under one or more of the following principles of criminal

1 liability: (1) by Defendant directly performing such acts; and/or (2) by Defendant acting with
2 DEBORAH SENA and/or others unknown pursuant to a conspiracy with DEBORAH SENA
3 and/or others unknown in performing such acts; and/or (3) by Defendant and DEBORAH
4 SENA and/or others unknown aiding and abetting each other by counseling, encouraging,
5 inducing, or otherwise procuring each other to commit such acts.

6 COUNT 65 - SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE

7 did, on or between December 2, 2008 and December 1, 2010, then and there willfully,
8 unlawfully, and feloniously sexually assault and subject T.S., a child under sixteen years of
9 age, to sexual penetration, to-wit: sexual intercourse, by said Defendant assisting and/or
10 causing DEBORAH SENA to have the penis of the said T.S. in the genital opening of
11 DEBORAH SENA, against the will of the said T.S., or under conditions in which Defendant
12 knew, or should have known, that T.S. was mentally or physically incapable of resisting or
13 understanding the nature of Defendant's conduct; Defendant being liable under one or more of
14 the following principles of criminal liability: (1) by Defendant directly performing such acts;
15 and/or (2) by Defendant acting with DEBORAH SENA and/or others unknown pursuant to a
16 conspiracy with DEBORAH SENA and/or others unknown in performing such acts; and/or
17 (3) by Defendant and DEBORAH SENA and/or others unknown aiding and abetting each
18 other by counseling, encouraging, inducing, or otherwise procuring each other to commit such
19 acts.

20 COUNT 66 - SEXUAL ASSAULT

21 did, on or between December 2, 2008 and December 1, 2012, then and there willfully,
22 unlawfully, and feloniously sexually assault and subject T.S., a child under sixteen years of
23 age, to sexual penetration, to-wit: sexual intercourse, by said Defendant assisting and/or
24 causing DEBORAH SENA to have the penis of the said T.S. in the genital opening of
25 DEBORAH SENA, against the will of the said T.S., or under conditions in which Defendant
26 knew, or should have known, that T.S. was mentally or physically incapable of resisting or
27 understanding the nature of Defendant's conduct; Defendant being liable under one or more of
28 the following principles of criminal liability: (1) by Defendant directly performing such acts;

1 and/or (2) by Defendant acting with DEBORAH SENA and/or others unknown pursuant to a
2 conspiracy with DEBORAH SENA and/or others unknown in performing such acts; and/or
3 (3) by Defendant and DEBORAH SENA and/or others unknown aiding and abetting each
4 other by counseling, encouraging, inducing, or otherwise procuring each other to commit such
5 acts.

6 COUNT 67 - SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE

7 did, on or between December 2, 2008 and December 1, 2010, then and there willfully,
8 unlawfully, and feloniously sexually assault and subject T.S., a child under sixteen years of
9 age, to sexual penetration, to-wit: fellatio, by said Defendant assisting and/or causing
10 DEBORAH SENA to have the penis of the said T.S. on and/or in the mouth of DEBORAH
11 SENA, against the will of the said T.S., or under conditions in which Defendant knew, or
12 should have known, that T.S. was mentally or physically incapable of resisting or
13 understanding the nature of Defendant's conduct; Defendant being liable under one or more of
14 the following principles of criminal liability: (1) by Defendant directly performing such acts;
15 and/or (2) by Defendant acting with DEBORAH SENA and/or others unknown pursuant to a
16 conspiracy with DEBORAH SENA and/or others unknown in performing such acts; and/or
17 (3) by Defendant and DEBORAH SENA and/or others unknown aiding and abetting each
18 other by counseling, encouraging, inducing, or otherwise procuring each other to commit such
19 acts.

20 COUNT 68 - SEXUAL ASSAULT

21 did, on or between December 2, 2008 and December 1, 2012, then and there willfully,
22 unlawfully, and feloniously sexually assault and subject T.S. to sexual penetration, to-wit:
23 fellatio, by said Defendant assisting and/or causing DEBORAH SENA to have the penis of
24 the said T.S. on and/or in the mouth of DEBORAH SENA, against the will of the said T.S., or
25 under conditions in which Defendant knew, or should have known, that T.S. was mentally or
26 physically incapable of resisting or understanding the nature of Defendant's conduct;
27 Defendant being liable under one or more of the following principles of criminal liability: (1)
28 by Defendant directly performing such acts; and/or (2) by Defendant acting with DEBORAH

1 SENA and/or others unknown pursuant to a conspiracy with DEBORAH SENA and/or others
2 unknown in performing such acts; and/or (3) by Defendant and DEBORAH SENA and/or
3 others unknown aiding and abetting each other by counseling, encouraging, inducing, or
4 otherwise procuring each other to commit such acts.

5 COUNT 69 - USE OF MINOR IN PRODUCING PORNOGRAPHY

6 did, on or between December 2, 2008 and December 1, 2013, then and there willfully,
7 unlawfully, feloniously and knowingly, use, encourage, entice or permit T.S., a minor under
8 the age of 18, to simulate or engage in, or assist others to simulate or engage in sexual conduct,
9 and/or be the subject of a sexual portrayal, to-wit: DEBORAH SENA engaging in sexual
10 intercourse with and performing fellatio on T.S., for the purpose of producing a pornographic
11 performance and that said performance was video recorded by said Defendant; Defendant
12 being liable under one or more of the following principles of criminal liability: (1) by
13 Defendant directly performing such acts; and/or (2) by Defendant acting with DEBORAH
14 SENA and/or others unknown pursuant to a conspiracy with DEBORAH SENA and/or others
15 unknown in performing such acts; and/or (3) by Defendant and DEBORAH SENA and/or
16 others unknown aiding and abetting each other by counseling, encouraging, inducing, or
17 otherwise procuring each other to commit such acts.

18 COUNT 70 CHILD ABUSE, NEGLECT, OR ENDANGERMENT - SEXUAL ABUSE

19 did, on or between August 13, 2011 and June 30, 2014, willfully, unlawfully, and
20 feloniously cause a child under the age of 18 years, to-wit: B.S. to suffer unjustifiable physical
21 pain or mental suffering as a result of abuse or neglect, to wit: sexual abuse, and/or cause B.S.
22 to be placed in a situation where the said B.S. might have suffered unjustifiable physical pain
23 or mental suffering as a result of abuse or neglect, to wit: sexual abuse, by said Defendant
24 causing B.S. to remove his clothes and get into a pool with Defendant and Deborah Sena, both
25 of whom were also nude, as Defendant and DEBORAH SENA proceeded to have sexual
26 intercourse in the presence of B.S.; Defendant being liable under one or more of the following
27 principles of criminal liability: (1) by Defendant directly performing such acts; and/or (2) by
28 Defendant acting with DEBORAH SENA and/or others unknown pursuant to a conspiracy

1 with DEBORAH SENA and/or others unknown in performing such acts; and/or (3) by
2 Defendant and DEBORAH SENA and/or others unknown aiding and abetting each other by
3 counseling, encouraging, inducing, or otherwise procuring each other to commit such acts.

4 COUNT 71 - SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE

5 did, on or between August 13, 2011 and June 30, 2014, then and there willfully,
6 unlawfully, and feloniously sexually assault and subject B.S., a child under sixteen years of
7 age, to sexual penetration, to-wit: fellatio, by said Defendant assisting and/or causing the said
8 DEBORAH SENA to have the penis of the said B.S. on and/or in the mouth of DEBORAH
9 SENA, against the will of the said B.S., or under conditions in which Defendant knew, or
10 should have known, that B.S. was mentally or physically incapable of resisting or
11 understanding the nature of Defendant's conduct; Defendant being liable under one or more of
12 the following principles of criminal liability: (1) by Defendant directly performing such acts;
13 and/or (2) by Defendant acting with DEBORAH SENA and/or others unknown pursuant to a
14 conspiracy with DEBORAH SENA and/or others unknown in performing such acts; and/or
15 (3) by Defendant and DEBORAH SENA and/or others unknown aiding and abetting each
16 other by counseling, encouraging, inducing, or otherwise procuring each other to commit such
17 acts.

18 COUNT 72 - SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE

19 did, on or between August 13, 2011 and June 30, 2014, then and there willfully,
20 unlawfully, and feloniously sexually assault and subject B.S., a child under sixteen years of
21 age, to sexual penetration, to-wit: sexual intercourse, by said Defendant assisting and/or
22 causing the said DEBORAH SENA to have the penis of the said B.S. in the genital opening of
23 DEBORAH SENA, against the will of the said B.S., or under conditions in which Defendant
24 knew, or should have known, that B.S. was mentally or physically incapable of resisting or
25 understanding the nature of Defendant's conduct; Defendant being liable under one or more of
26 the following principles of criminal liability: (1) by Defendant directly performing such acts;
27 and/or (2) by Defendant acting with DEBORAH SENA and/or others unknown pursuant to a
28 conspiracy with DEBORAH SENA and/or others unknown in performing such acts; and/or

1 (3) by Defendant and DEBORAH SENA and/or others unknown aiding and abetting each
2 other by counseling, encouraging, inducing, or otherwise procuring each other to commit such
3 acts.

4 COUNT 73 - INCEST

5 did, on or between August 13, 2011 and June 30, 2014, willfully, unlawfully, and
6 feloniously assist and/or cause DEBORAH SENA to commit fornication or adultery with
7 and/or on B.S., the son of DEBORAH SENA; DEBORAH SENA and B.S. being within the
8 degree of consanguinity within which marriages are declared by law to be incestuous and void;
9 the Defendant committing the crime by assisting and/or causing DEBORAH SENA to engage
10 in sexual intercourse with B.S.; Defendant being liable under one or more of the following
11 principles of criminal liability: (1) by Defendant directly performing such acts; and/or (2) by
12 Defendant acting with DEBORAH SENA and/or others unknown pursuant to a conspiracy
13 with DEBORAH SENA and/or others unknown in performing such acts; and/or (3) by
14 Defendant and DEBORAH SENA and/or others unknown aiding and abetting each other by
15 counseling, encouraging, inducing, or otherwise procuring each other to commit such acts.

16 COUNT 74 - SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE

17 did, on or between August 13, 2011 and June 30, 2014, then and there willfully,
18 unlawfully, and feloniously sexually assault and subject B.S., a child under sixteen years of
19 age, to sexual penetration, to-wit: sexual intercourse, by said Defendant assisting and/or
20 causing DEBORAH SENA to have the penis of the said B.S. in the genital opening of
21 DEBORAH SENA, against the will of the said B.S., or under conditions in which Defendant
22 knew, or should have known, that B.S. was mentally or physically incapable of resisting or
23 understanding the nature of Defendant's conduct; Defendant being liable under one or more of
24 the following principles of criminal liability: (1) by Defendant directly performing such acts;
25 and/or (2) by Defendant acting with DEBORAH SENA and/or others unknown pursuant to a
26 conspiracy with DEBORAH SENA and/or others unknown in performing such acts; and/or
27 (3) by Defendant and DEBORAH SENA and/or others unknown aiding and abetting each
28 other by counseling, encouraging, inducing, or otherwise procuring each other to commit such

1 acts.

2 COUNT 75 - INCEST

3 did, on or between August 13, 2011 and June 30, 2014, willfully, unlawfully, and
4 feloniously assist and/or cause DEBORAH SENA to commit fornication or adultery with
5 and/or on B.S., the son of DEBORAH SENA; DEBORAH SENA and B.S. being within the
6 degree of consanguinity within which marriages are declared by law to be incestuous and void;
7 the Defendant committing the crime by assisting and/or causing DEBORAH SENA to engage
8 in sexual intercourse with B.S.; Defendant being liable under one or more of the following
9 principles of criminal liability: (1) by Defendant directly performing such acts; and/or (2) by
10 Defendant acting with DEBORAH SENA and/or others unknown pursuant to a conspiracy
11 with DEBORAH SENA and/or others unknown in performing such acts; and/or (3) by
12 Defendant and DEBORAH SENA and/or others unknown aiding and abetting each other by
13 counseling, encouraging, inducing, or otherwise procuring each other to commit such acts.

14 COUNT 76 - SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE

15 did, on or between August 13, 2011 and June 30, 2014, then and there willfully,
16 unlawfully, and feloniously sexually assault and subject B.S., a child under sixteen years of
17 age, to sexual penetration, to-wit: fellatio, by said Defendant assisting and/or causing
18 DEBORAH SENA to have the penis of the said B.S. on and/or in the mouth of DEBORAH
19 SENA, against the will of the said B.S., or under conditions in which Defendant knew, or
20 should have known, that B.S. was mentally or physically incapable of resisting or
21 understanding the nature of Defendant's conduct; Defendant being liable under one or more of
22 the following principles of criminal liability: (1) by Defendant directly performing such acts;
23 and/or (2) by Defendant acting with DEBORAH SENA and/or others unknown pursuant to a
24 conspiracy with DEBORAH SENA and/or others unknown in performing such acts; and/or
25 (3) by Defendant and DEBORAH SENA and/or others unknown aiding and abetting each
26 other by counseling, encouraging, inducing, or otherwise procuring each other to commit such
27 acts.

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1 COUNT 77 - USE OF MINOR IN PRODUCING PORNOGRAPHY

2 did, on or between August 13, 2011 and June 30, 2014, then and there willfully,
3 unlawfully, feloniously and knowingly, use, encourage, entice or permit B.S., a minor under
4 the age of 18, to simulate or engage in, or assist others to simulate or engage in sexual conduct,
5 and/or be the subject of a sexual portrayal, to-wit: DEBORAH SENA engaging in sexual
6 intercourse with and performing fellatio on B.S., for the purpose of producing a pornographic
7 performance and that said performance was video recorded by said Defendant; Defendant
8 being liable under one or more of the following principles of criminal liability: (1) by
9 Defendant directly performing such acts; and/or (2) by Defendant acting with DEBORAH
10 SENA and/or others unknown pursuant to a conspiracy with DEBORAH SENA and/or others
11 unknown in performing such acts; and/or (3) by Defendant and DEBORAH SENA and/or
12 others unknown aiding and abetting each other by counseling, encouraging, inducing, or
13 otherwise procuring each other to commit such acts.

14 COUNT 78 - POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL
15 CONDUCT OF A CHILD

16 did, willfully, unlawfully, feloniously and knowingly have in his possession a film,
17 photograph, or other visual presentation depicting B.S., a child under the age of 16 years of
18 age, as the subject of a sexual portrayal or engaging in, simulating, or assisting others to engage
19 in or simulate sexual conduct, to-wit: a video showing DEBORAH SENA engaging in sexual
20 intercourse with and performing fellatio on B.S.

21 COUNT 79 - SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE

22 did, on or between August 13, 2011 and June 30, 2014, then and there willfully,
23 unlawfully, and feloniously sexually assault and subject B.S., a child under sixteen years of
24 age, to sexual penetration, to-wit: fellatio, by said Defendant assisting and/or causing TERRIE
25 SENA to place her mouth on the penis of the said B.S., against the will of the said B.S., or
26 under conditions in which Defendant knew, or should have known, that B.S. was mentally or
27 physically incapable of resisting or understanding the nature of Defendant's conduct;
28 Defendant being liable under one or more of the following principles of criminal liability: (1)

1 by Defendant directly performing such acts; and/or (2) by Defendant acting with TERRIE
2 SENA and/or others unknown pursuant to a conspiracy with TERRIE SENA and/or others
3 unknown in performing such acts; and/or (3) by Defendant and TERRIE SENA and/or others
4 unknown aiding and abetting each other by counseling, encouraging, inducing, or otherwise
5 procuring each other to commit such acts.

6 COUNT 80 - SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE

7 did, on or between August 13, 2011 and June 30, 2014, then and there willfully,
8 unlawfully, and feloniously sexually assault and subject B.S., a child under sixteen years of
9 age, to sexual penetration, to-wit: sexual intercourse, by said Defendant assisting and/or
10 causing TERRIE SENA to have the penis of the said B.S. in the genital opening of TERRIE
11 SENA, against the will of the said B.S., or under conditions in which Defendant knew, or
12 should have known, that B.S. was mentally or physically incapable of resisting or
13 understanding the nature of Defendant's conduct; Defendant being liable under one or more of
14 the following principles of criminal liability: (1) by Defendant directly performing such acts;
15 and/or (2) by Defendant acting with TERRIE SENA and/or others unknown pursuant to a
16 conspiracy with TERRIE SENA and/or others unknown in performing such acts; and/or (3)
17 by Defendant and TERRIE SENA and/or others unknown aiding and abetting each other by
18 counseling, encouraging, inducing, or otherwise procuring each other to commit such acts.

19 COUNT 81 - CHILD ABUSE, NEGLECT, OR ENDANGERMENT - SEXUAL ABUSE

20 did, on or between August 13, 2011 and June 30, 2014, willfully, unlawfully, and
21 feloniously cause a child under the age of 18 years, to-wit: B.S. to suffer unjustifiable physical
22 pain or mental suffering as a result of abuse or neglect, to wit: sexual abuse, and/or cause B.S.
23 to be placed in a situation where the said B.S. might have suffered unjustifiable physical pain
24 or mental suffering as a result of abuse or neglect, to wit: sexual abuse, by said Defendant
25 causing and/or directing and/or encouraging the said B.S. to fondle the breast(s) of TERRIE
26 SENA; Defendant being liable under one or more of the following principles of criminal
27 liability: (1) by Defendant directly performing such acts; and/or (2) by Defendant acting with
28 TERRIE SENA and/or others unknown pursuant to a conspiracy with TERRIE SENA and/or

1 others unknown in performing such acts; and/or (3) by Defendant and TERRIE SENA and/or
2 others unknown aiding and abetting each other by counseling, encouraging, inducing, or
3 otherwise procuring each other to commit such acts.

4 COUNT 82 - OPEN OR GROSS LEWDNESS

5 did, on or between August 13, 2011 and June 30, 2014, willfully and unlawfully
6 commit an act of open or gross lewdness by said Defendant assisting and/or causing B.S. to
7 touch and/or rub and/or fondle the breast(s) of TERRIE SENA; Defendant being liable under
8 one or more of the following principles of criminal liability: (1) by Defendant directly
9 performing such acts; and/or (2) by Defendant acting with TERRIE SENA and/or others
10 unknown pursuant to a conspiracy with TERRIE SENA and/or others unknown in performing
11 such acts; and/or (3) by Defendant and TERRIE SENA and/or others unknown aiding and
12 abetting each other by counseling, encouraging, inducing, or otherwise procuring each other
13 to commit such acts.

14 COUNT 83 - SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE

15 did, on or between August 13, 2011 and June 30, 2014, then and there willfully,
16 unlawfully, and feloniously sexually assault and subject B.S., a child under sixteen years of
17 age, to sexual penetration, to-wit: sexual intercourse, by said Defendant assisting and/or
18 causing TERRIE SENA to have the penis of the said B.S. in the genital opening of said
19 TERRIE SENA, against the will of the said B.S., or under conditions in which Defendant
20 knew, or should have known, that B.S. was mentally or physically incapable of resisting or
21 understanding the nature of Defendant's conduct; Defendant being liable under one or more of
22 the following principles of criminal liability: (1) by Defendant directly performing such acts;
23 and/or (2) by Defendant acting with TERRIE SENA and/or others unknown pursuant to a
24 conspiracy with TERRIE SENA and/or others unknown in performing such acts; and/or (3)
25 by Defendant and TERRIE SENA and/or others unknown aiding and abetting each other by
26 counseling, encouraging, inducing, or otherwise procuring each other to commit such acts.

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1 COUNT 84 - CHILD ABUSE, NEGLECT, OR ENDANGERMENT - SEXUAL ABUSE

2 did, on or between August 13, 2011 and June 30, 2014, willfully, unlawfully, and
3 feloniously cause a child under the age of 18 years, to-wit: B.S. to suffer unjustifiable physical
4 pain or mental suffering as a result of abuse or neglect, to wit: sexual abuse, and/or cause B.S.
5 to be placed in a situation where the said B.S. might have suffered unjustifiable physical pain
6 or mental suffering as a result of abuse or neglect, to wit: sexual abuse, by said Defendant
7 causing and/or directing and/or encouraging the said B.S. to touch and/or rub and/or fondle
8 the breast(s) of TERRIE SENA; Defendant being liable under one or more of the following
9 principles of criminal liability: (1) by Defendant directly performing such acts; and/or (2) by
10 Defendant acting with TERRIE SENA and/or others unknown pursuant to a conspiracy with
11 TERRIE SENA and/or others unknown in performing such acts; and/or (3) by Defendant and
12 TERRIE SENA and/or others unknown aiding and abetting each other by counseling,
13 encouraging, inducing, or otherwise procuring each other to commit such acts.

14 COUNT 85 - OPEN OR GROSS LEWDNESS

15 did, on or between August 13, 2011 and June 30, 2014, willfully and unlawfully
16 commit an act of open or gross lewdness by said Defendant assisting and/or causing B.S. to
17 touch and/or rub and/or fondle the breast(s) of TERRIE SENA; Defendant being liable under
18 one or more of the following principles of criminal liability: (1) by Defendant directly
19 performing such acts; and/or (2) by Defendant acting with TERRIE SENA and/or others
20 unknown pursuant to a conspiracy with TERRIE SENA and/or others unknown in performing
21 such acts; and/or (3) by Defendant and TERRIE SENA and/or others unknown aiding and
22 abetting each other by counseling, encouraging, inducing, or otherwise procuring each other
23 to commit such acts.

24 COUNT 86 - PREVENTING OR DISSUADING WITNESS OR VICTIM FROM
25 REPORTING CRIME OR COMMENCING PROSECUTION

26 did, on or between August 13, 2011 and June 30, 2014, then and there, willfully,
27 unlawfully, and feloniously, by intimidation or threats, prevent or dissuade, or hinder or delay
28 B.S., from reporting a crime to anyone by said Defendant telling the said B.S. that the said

1 Defendant would break the legs of the said B.S. and/or kill the said B.S. if the said B.S. told
2 anyone of the sexual acts the said B.S. was forced to commit or have committed upon the said
3 B.S.

4 COUNT 87 - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF
5 AGE

6 did, on or between June 14, 2010 and June 13, 2012, then and there willfully,
7 unlawfully, and feloniously sexually assault and subject R.S., a child under fourteen years of
8 age, to sexual penetration, to-wit: anal intercourse, by said Defendant inserting his penis into
9 the anal opening of the said R.S., against the will of the said R.S., or under conditions in which
10 Defendant knew, or should have known, that R.S. was mentally or physically incapable of
11 resisting or understanding the nature of Defendant's conduct.

12 COUNT 88 - LEWDNESS WITH A MINOR UNDER THE AGE OF 14

13 did, on or between June 14, 2010 and June 13, 2012, willfully, lewdly, unlawfully, and
14 feloniously commit a lewd or lascivious act upon or with the body, or any part or member
15 thereof, of a child, to-wit: R.S., a child under the age of fourteen years, by said Defendant
16 using his penis to touch and/or rub and/or fondle the anal area of the said R.S., with the intent
17 of arousing, appealing to, or gratifying the lust, passions, or sexual desires of defendant, or
18 R.S.

19 COUNT 89 - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF
20 AGE

21 did, on or between June 14, 2010 and June 13, 2012, then and there willfully,
22 unlawfully, and feloniously sexually assault and subject R.S., a child under fourteen years of
23 age, to sexual penetration, to-wit: anal intercourse, by said Defendant inserting his penis into
24 the anal opening of the said R.S., against the will of the said R.S., or under conditions in which
25 Defendant knew, or should have known, that R.S. was mentally or physically incapable of
26 resisting or understanding the nature of Defendant's conduct.

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1 COUNT 90 - LEWDNESS WITH A MINOR UNDER THE AGE OF 14

2 did, on or between June 14, 2010 and June 13, 2012, willfully, lewdly, unlawfully, and
3 feloniously commit a lewd or lascivious act upon or with the body, or any part or member
4 thereof, of a child, to-wit: R.S., a child under the age of fourteen years, by said Defendant
5 using his penis to touch and/or rub and/or fondle the anal area of the said R.S., with the intent
6 of arousing, appealing to, or gratifying the lust, passions, or sexual desires of defendant, or
7 R.S.

8 COUNT 91 - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF
9 AGE

10 did, on or between June 14, 2010 and June 13, 2012, then and there willfully,
11 unlawfully, and feloniously sexually assault and subject R.S., a child under fourteen years of
12 age, to sexual penetration, to-wit: anal intercourse, by said Defendant inserting his penis into
13 the anal opening of the said R.S., against the will of the said R.S., or under conditions in which
14 Defendant knew, or should have known, that R.S. was mentally or physically incapable of
15 resisting or understanding the nature of Defendant's conduct.

16 COUNT 92 - LEWDNESS WITH A MINOR UNDER THE AGE OF 14

17 did, on or between June 14, 2010 and June 13, 2012, willfully, lewdly, unlawfully, and
18 feloniously commit a lewd or lascivious act upon or with the body, or any part or member
19 thereof, of a child, to-wit: R.S., a child under the age of fourteen years, by said Defendant
20 using his penis to touch and/or rub and/or fondle the anal area of the said R.S., with the intent
21 of arousing, appealing to, or gratifying the lust, passions, or sexual desires of defendant, or
22 R.S.

23 COUNT 93 - SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE

24 did, on or between June 14, 2012 and June 13, 2014, then and there willfully,
25 unlawfully, and feloniously sexually assault and subject R.S., a child under sixteen years of
26 age, to sexual penetration, to-wit: anal intercourse, by said Defendant inserting his penis into
27 the anal opening of the said R.S., against the will of the said R.S., or under conditions in which
28 Defendant knew, or should have known, that R.S. was mentally or physically incapable of

1 resisting or understanding the nature of Defendant's conduct.

2 COUNT 94 - SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE

3 did, on or between June 14, 2012 and June 13, 2014, then and there willfully,
4 unlawfully, and feloniously sexually assault and subject R.S., a child under sixteen years of
5 age, to sexual penetration, to-wit: anal intercourse, by said Defendant inserting his penis into
6 the anal opening of the said R.S., against the will of the said R.S., or under conditions in which
7 Defendant knew, or should have known, that R.S. was mentally or physically incapable of
8 resisting or understanding the nature of Defendant's conduct.

9 COUNT 95 - SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE

10 did, on or between June 14, 2010 and June 13, 2014, then and there willfully,
11 unlawfully, and feloniously sexually assault and subject R.S., a child under sixteen years of
12 age, to sexual penetration, to-wit: fellatio, by said Defendant assisting and/or causing TERRIE
13 SENA to have the penis of the said R.S. on and/or in the mouth of said TERRIE SENA, against
14 the will of the said R.S., or under conditions in which Defendant knew, or should have known,
15 that R.S. was mentally or physically incapable of resisting or understanding the nature of
16 Defendant's conduct; Defendant being liable under one or more of the following principles of
17 criminal liability: (1) by Defendant directly performing such acts; and/or (2) by Defendant
18 acting with TERRIE SENA and/or others unknown pursuant to a conspiracy with TERRIE
19 SENA and/or others unknown in performing such acts; and/or (3) by Defendant and TERRIE
20 SENA and/or others unknown aiding and abetting each other by counseling, encouraging,
21 inducing, or otherwise procuring each other to commit such acts.

22 COUNT 96 - SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE

23 did, on or between June 14, 2010 and June 13, 2014, then and there willfully,
24 unlawfully, and feloniously sexually assault and subject R.S., a child under sixteen years of
25 age, to sexual penetration, to-wit: sexual intercourse, by said Defendant assisting and/or
26 causing TERRIE SENA to have the penis of the said R.S. in the genital opening of said
27 TERRIE SENA, against the will of the said R.S., or under conditions in which Defendant
28 knew, or should have known, that R.S. was mentally or physically incapable of resisting or

1 understanding the nature of Defendant's conduct; Defendant being liable under one or more of
2 the following principles of criminal liability: (1) by Defendant directly performing such acts;
3 and/or (2) by Defendant acting with TERRIE SENA and/or others unknown pursuant to a
4 conspiracy with TERRIE SENA and/or others unknown in performing such acts; and/or (3)
5 by Defendant and TERRIE SENA and/or others unknown aiding and abetting each other by
6 counseling, encouraging, inducing, or otherwise procuring each other to commit such acts.

7 COUNT 97 - INCEST

8 did, on or between June 14, 2010 and June 13, 2014, willfully, unlawfully, and
9 feloniously assist and/or cause TERRIE SENA to commit fornication or adultery with and/or
10 on R.S., the son of TERRIE SENA; TERRIE SENA and R.S. being within the degree of
11 consanguinity within which marriages are declared by law to be incestuous and void; the
12 Defendant committing the crime by assisting and/or causing TERRIE SENA to engage in
13 sexual intercourse R.S.; Defendant being liable under one or more of the following principles
14 of criminal liability: (1) by Defendant directly performing such acts; and/or (2) by Defendant
15 acting with TERRIE SENA and/or others unknown pursuant to a conspiracy with TERRIE
16 SENA and/or others unknown in performing such acts; and/or (3) by Defendant and TERRIE
17 SENA and/or others unknown aiding and abetting each other by counseling, encouraging,
18 inducing, or otherwise procuring each other to commit such acts.

19 COUNT 98 - SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE

20 did, on or between June 14, 2010 and June 13, 2014, then and there willfully,
21 unlawfully, and feloniously sexually assault and subject R.S., a child under sixteen years of
22 age, to sexual penetration, to-wit: fellatio, by said Defendant assisting and/or causing TERRIE
23 SENA to have the penis of the said R.S. on and/or in the mouth of TERRIE SENA, against the
24 will of the said R.S., or under conditions in which Defendant knew, or should have known,
25 that R.S. was mentally or physically incapable of resisting or understanding the nature of
26 Defendant's conduct; Defendant being liable under one or more of the following principles of
27 criminal liability: (1) by Defendant directly performing such acts; and/or (2) by Defendant
28 acting with TERRIE SENA and/or others unknown pursuant to a conspiracy with TERRIE

1 SENA and/or others unknown in performing such acts; and/or (3) by Defendant and TERRIE
2 SENA and/or others unknown aiding and abetting each other by counseling, encouraging,
3 inducing, or otherwise procuring each other to commit such acts.

4 COUNT 99 - USE OF MINOR IN PRODUCING PORNOGRAPHY

5 did, on or between June 14, 2010 and June 13, 2014, then and there willfully,
6 unlawfully, feloniously and knowingly, use, encourage, entice or permit R.S., a minor under
7 the age of 18, to simulate or engage in, or assist others to simulate or engage in sexual conduct,
8 and/or be the subject of a sexual portrayal, to-wit: TERRIE SENA engaging in sexual
9 intercourse with and performing fellatio on R.S., for the purpose of producing a pornographic
10 performance and that said performance was video recorded by said Defendant; Defendant
11 being liable under one or more of the following principles of criminal liability: (1) by
12 Defendant directly performing such acts; and/or (2) by Defendant acting with TERRIE SENA
13 and/or others unknown pursuant to a conspiracy with TERRIE SENA and/or others unknown
14 in performing such acts; and/or (3) by Defendant and TERRIE SENA and/or others unknown
15 aiding and abetting each other by counseling, encouraging, inducing, or otherwise procuring
16 each other to commit such acts.

17 COUNT 100 - POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL
18 CONDUCT OF A CHILD

19 did, willfully, unlawfully, feloniously and knowingly have in his possession a film,
20 photograph, or other visual presentation depicting R.S., a child under the age of 16 years of
21 age, as the subject of a sexual portrayal or engaging in, simulating, or assisting others to engage
22 in or simulate sexual conduct, to-wit: a video showing TERRIE SENA engaging in sexual
23 intercourse with and performing fellatio on R.S.

24 COUNT 101 - SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE

25 did, on or between June 14, 2010 and June 13, 2014, then and there willfully,
26 unlawfully, and feloniously sexually assault and subject R.S., a child under sixteen years of
27 age, to sexual penetration, to-wit: fellatio, by said Defendant assisting and/or causing TERRIE
28 SENA to have the penis of the said R.S. on and/or in the mouth of TERRIE SENA, against the

1 will of the said R.S., or under conditions in which Defendant knew, or should have known,
2 that R.S. was mentally or physically incapable of resisting or understanding the nature of
3 Defendant's conduct; Defendant being liable under one or more of the following principles of
4 criminal liability: (1) by Defendant directly performing such acts; and/or (2) by Defendant
5 acting with TERRIE SENA and/or others unknown pursuant to a conspiracy with TERRIE
6 SENA and/or others unknown in performing such acts; and/or (3) by Defendant and TERRIE
7 SENA and/or others unknown aiding and abetting each other by counseling, encouraging,
8 inducing, or otherwise procuring each other to commit such acts.

9 COUNT 102 - SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE

10 did, on or between June 14, 2010 and June 13, 2014, then and there willfully,
11 unlawfully, and feloniously sexually assault and subject R.S., a child under sixteen years of
12 age, to sexual penetration, to-wit: fellatio, by said Defendant assisting and/or causing TERRIE
13 SENA to have the penis of the said R.S. on and/or in the mouth of TERRIE SENA, against the
14 will of the said R.S., or under conditions in which Defendant knew, or should have known,
15 that R.S. was mentally or physically incapable of resisting or understanding the nature of
16 Defendant's conduct; Defendant being liable under one or more of the following principles of
17 criminal liability: (1) by Defendant directly performing such acts; and/or (2) by Defendant
18 acting with TERRIE SENA and/or others unknown pursuant to a conspiracy with TERRIE
19 SENA and/or others unknown in performing such acts; and/or (3) by Defendant and TERRIE
20 SENA and/or others unknown aiding and abetting each other by counseling, encouraging,
21 inducing, or otherwise procuring each other to commit such acts.

22 COUNT 103 - USE OF MINOR IN PRODUCING PORNOGRAPHY

23 did, on or between June 14, 2010 and June 13, 2014, then and there willfully,
24 unlawfully, feloniously and knowingly, use, encourage, entice or permit R.S., a minor under
25 the age of 18, to simulate or engage in, or assist others to simulate or engage in sexual conduct,
26 and/or be the subject of a sexual portrayal, to-wit: TERRIE SENA performing fellatio on R.S.,
27 for the purpose of producing a pornographic performance and that said performance was video
28 recorded by said Defendant; Defendant being liable under one or more of the following

principles of criminal liability: (1) by Defendant directly performing such acts; and/or (2) by Defendant acting with TERRIE SENA and/or others unknown pursuant to a conspiracy with TERRIE SENA and/or others unknown in performing such acts; and/or (3) by Defendant and TERRIE SENA and/or others unknown aiding and abetting each other by counseling, encouraging, inducing, or otherwise procuring each other to commit such acts.

COUNT 104 - POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL
CONDUCT OF A CHILD

did, willfully, unlawfully, feloniously and knowingly have in his possession a film, photograph, or other visual presentation depicting R.S., a child under the age of 16 years of age, as the subject of a sexual portrayal or engaging in, simulating, or assisting others to engage in or simulate sexual conduct, to-wit: a video showing TERRIE SENA performing fellatio on R.S.

COUNT 105 - CHILD ABUSE, NEGLECT OR ENDANGERMENT - SEXUAL
EXPLOITATION

did, on or between June 14, 2010 and June 13, 2014, willfully, unlawfully, and feloniously cause a child under the age of 18 years, to-wit: R.S. to suffer unjustifiable physical pain or mental suffering as a result of abuse or neglect, to wit: sexual exploitation, and/or cause R.S. to be placed in a situation where the said R.S. might have suffered unjustifiable physical pain or mental suffering as a result of abuse or neglect, to wit: sexual exploitation, by said Defendant causing the said R.S. to observe videos showing Defendant having sexual contact with TERRIE SENA and/or pictures of DEBORAH SENA and TERRIE SENA in the nude and/or a video which shows sexual contact between Defendant and/or TERRIE SENA and/or DEBORAH SENA.

COUNT 106 - PREVENTING OR DISSUADING WITNESS OR VICTIM FROM
REPORTING CRIME OR COMMENCING PROSECUTION

did, on or between June 14, 2010 and June 13, 2014, then and there, willfully, unlawfully, and feloniously, by intimidation or threats, prevent or dissuade, or hinder or delay R.S., from reporting a crime to anyone by said Defendant telling the said R.S. that the said

1 Defendant would kill him and/or make his life a living hell if the said R.S. told anyone of the
2 sexual acts the said B.S. was forced to commit or have committed upon the said R.S.

3 COUNT 107 - LEWDNESS WITH A CHILD UNDER THE AGE OF 14

4 did, on or between December 21, 2010 and June 30, 2014, willfully, lewdly,
5 unlawfully, and feloniously commit a lewd or lascivious act upon or with the body, or any part
6 or member thereof, of a child, to-wit: E.C., a child under the age of fourteen years, by said
7 Defendant using his hand(s) and/or finger(s) to touch and/or rub and/or fondle the genital area
8 of the said E.C., with the intent of arousing, appealing to, or gratifying the lust, passions, or
9 sexual desires of defendant, or E.C.

10 COUNT 108 - LEWDNESS WITH A CHILD UNDER THE AGE OF 14

11 did, on or between December 21, 2010 and June 30, 2014, willfully, lewdly,
12 unlawfully, and feloniously commit a lewd or lascivious act upon or with the body, or any part
13 or member thereof, of a child, to-wit: E.C., a child under the age of fourteen years, by said
14 Defendant using his hand(s) and/or finger(s) to touch and/or rub and/or fondle the breast(s) of
15 the said E.C., with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual
16 desires of defendant, or E.C.

17 COUNT 109 - LEWDNESS WITH A CHILD UNDER THE AGE OF 14

18 did, on or between December 21, 2010 and June 30, 2014, willfully, lewdly,
19 unlawfully, and feloniously commit a lewd or lascivious act upon or with the body, or any part
20 or member thereof, of a child, to-wit: E.C., a child under the age of fourteen years, by said
21 Defendant using his hand(s) and/or finger(s) to touch and/or rub and/or fondle the genital area
22 of the said E.C., with the intent of arousing, appealing to, or gratifying the lust, passions, or
23 sexual desires of defendant, or E.C.

24 COUNT 110 - LEWDNESS WITH A CHILD UNDER THE AGE OF 14

25 did, on or between December 21, 2010 and June 30, 2014, willfully, lewdly,
26 unlawfully, and feloniously commit a lewd or lascivious act upon or with the body, or any part
27 or member thereof, of a child, to-wit: E.C., a child under the age of fourteen years, by said
28 Defendant using his hand(s) and/or finger(s) to touch and/or rub and/or fondle the breast(s) of

1 the said E.C., with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual
2 desires of defendant, or E.C.

3 COUNT 111 - LEWDNESS WITH A CHILD UNDER THE AGE OF 14

4 did, on or between December 21, 2010 and June 30, 2014, willfully, lewdly,
5 unlawfully, and feloniously commit a lewd or lascivious act upon or with the body, or any part
6 or member thereof, of a child, to-wit: E.C., a child under the age of fourteen years, by said
7 Defendant using his hand(s) and/or finger(s) to touch and/or rub and/or fondle the genital area
8 of the said E.C., with the intent of arousing, appealing to, or gratifying the lust, passions, or
9 sexual desires of defendant, or E.C.

10 COUNT 112 - LEWDNESS WITH A CHILD UNDER THE AGE OF 14

11 did, on or between December 21, 2010 and June 30, 2014, willfully, lewdly,
12 unlawfully, and feloniously commit a lewd or lascivious act upon or with the body, or any part
13 or member thereof, of a child, to-wit: E.C., a child under the age of fourteen years, by said
14 Defendant using his hand(s) and/or finger(s) to touch and/or rub and/or fondle the breast(s) of
15 the said E.C., with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual
16 desires of defendant, or E.C.

17 COUNT 113 - LEWDNESS WITH A CHILD UNDER THE AGE OF 14

18 did, on or between December 21, 2010 and June 30, 2014, willfully, lewdly,
19 unlawfully, and feloniously commit a lewd or lascivious act upon or with the body, or any part
20 or member thereof, of a child, to-wit: E.C., a child under the age of fourteen years, by said
21 Defendant using his hand(s) and/or finger(s) to touch and/or rub and/or fondle the genital area
22 of the said E.C., with the intent of arousing, appealing to, or gratifying the lust, passions, or
23 sexual desires of defendant, or E.C.

24 COUNT 114 - LEWDNESS WITH A CHILD UNDER THE AGE OF 14

25 did, on or between December 21, 2010 and June 30, 2014, willfully, lewdly,
26 unlawfully, and feloniously commit a lewd or lascivious act upon or with the body, or any part
27 or member thereof, of a child, to-wit: E.C., a child under the age of fourteen years, by said
28 Defendant using his hand(s) and/or finger(s) to touch and/or rub and/or fondle the breast(s) of

1 the said E.C., with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual
2 desires of defendant, or E.C.

3 COUNT 115 - USE OF MINOR UNDER THE AGE OF 14 IN PRODUCING

4 PORNOGRAPHY

5 did, on or between December 21, 2010 and June 30, 2014, then and there willfully,
6 unlawfully, feloniously and knowingly, use, encourage, entice or permit E.C., a minor under
7 the age of 14, to simulate or engage in, or assist others to simulate or engage in sexual conduct,
8 and/or be the subject of a sexual portrayal, to-wit: E.C. showering in the nude, for the purpose
9 of producing a pornographic performance and that said performance was video recorded by
10 said Defendant and/or TERRIE SENA; Defendant being liable under one or more of the
11 following principles of criminal liability: (1) by Defendant directly performing such acts;
12 and/or (2) by Defendant acting with TERRIE SENA and/or others unknown pursuant to a
13 conspiracy with TERRIE SENA and/or others unknown in performing such acts; and/or (3)
14 by Defendant and TERRIE SENA and/or others unknown aiding and abetting each other by
15 counseling, encouraging, inducing, or otherwise procuring each other to commit such acts.

16 COUNT 116 - POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL

17 CONDUCT OF A CHILD

18 did, on or about the 18th day of September, 2014, then and there, feloniously,
19 knowingly and willfully have in his possession a film, photograph, or other visual presentation
20 depicting a child under the age of 16 years of age to simulate or engage in sexual conduct
21 and/or be as the subject of a sexual portrayal, to-wit: E.C. in the nude.

22 COUNT 117 - CHILD ABUSE, NEGLECT OR ENDANGERMENT - SEXUAL

23 EXPLOITATION

24 did, on or between January 9, 2004 and January 8, 2013, willfully, unlawfully, and
25 feloniously cause a child under the age of 18 years, to-wit: T.G. to suffer unjustifiable physical
26 pain or mental suffering as a result of abuse or neglect, to wit: sexual exploitation, and/or cause
27 T.G. to be placed in a situation where the said T.G. might have suffered unjustifiable physical
28 pain or mental suffering as a result of abuse or neglect, to wit: sexual exploitation, by said

1 Defendant showing T.G. photos of nude individuals including individuals engaged in sexual
2 activity.

3 COUNT 118 - USE OF MINOR UNDER THE AGE OF 18 IN PRODUCING
4 PORNOGRAPHY

5 did, on or between January 9, 2004 and January 8, 2013, then and there willfully,
6 unlawfully, feloniously and knowingly, use, encourage, entice or permit T.G., a minor under
7 the age of 18, to simulate or engage in, or assist others to simulate or engage in sexual conduct,
8 and/or be the subject of a sexual portrayal, to-wit: said Defendant video recording T.G.
9 showering in the nude, for the purpose of producing a pornographic performance; Defendant
10 being liable under one or more of the following principles of criminal liability: (1) by
11 Defendant directly performing such acts; and/or (2) by Defendant acting with TERRIE SENA
12 and/or others unknown pursuant to a conspiracy with TERRIE SENA and/or others unknown
13 in performing such acts; and/or (3) by Defendant and TERRIE SENA and/or others unknown
14 aiding and abetting each other by counseling, encouraging, inducing, or otherwise procuring
15 each other to commit such acts.

16 COUNT 119 - POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL
17 CONDUCT OF A CHILD

18 did, on or about the 18th day of September, 2014, then and there, feloniously,
19 knowingly and willfully have in his possession a film, photograph, or other visual presentation
20 depicting a child under the age of 16 years of age to simulate or engage in sexual conduct
21 and/or be the subject of a sexual portrayal, to-wit: T.G., a minor under the age of 16, showering
22 in the nude.

23 COUNT 120 - POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL
24 CONDUCT OF A CHILD

25 did, willfully, unlawfully, feloniously and knowingly have in his possession a film,
26 photograph, or other visual presentation depicting M.C., a child under the age of 16 years of
27 age, as the subject of a sexual portrayal or engaging in, simulating, or assisting others to engage
28 in or simulate sexual conduct, to-wit: an image of the said M.C. sitting nude on a bed with a

vibrator between her legs.

COUNT 121 - POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL
CONDUCT OF A CHILD

did, willfully, unlawfully, feloniously and knowingly have in his possession a film, photograph, or other visual presentation depicting M.C., a child under the age of 16 years of age, as the subject of a sexual portrayal or engaging in, simulating, or assisting others to engage in or simulate sexual conduct, to-wit: an image of the said M.C. sitting nude on a bed with a vibrator between her breasts.

COUNT 122 - POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL
CONDUCT OF A CHILD

did, willfully, unlawfully, feloniously and knowingly have in his possession a film, photograph, or other visual presentation depicting M.C., a child under the age of 16 years of age, as the subject of a sexual portrayal or engaging in, simulating, or assisting others to engage in or simulate sexual conduct, to-wit: an image of the said M.C. sitting nude on a bed with a vibrator touching her mouth.

COUNT 123 - POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL
CONDUCT OF A CHILD

did, willfully, unlawfully, feloniously and knowingly have in his possession a film, photograph, or other visual presentation depicting M.C., a child under the age of 16 years of age, as the subject of a sexual portrayal or engaging in, simulating, or assisting others to engage in or simulate sexual conduct, to-wit: an image of the said M.C. sitting on a bed in the nude.

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1 COUNT 124 - POSSESSION OF VISUAL PRESENTATION DEPICTING SEXUAL
2 CONDUCT OF A CHILD

3 did, willfully, unlawfully, feloniously and knowingly have in his possession a film,
4 photograph, or other visual presentation depicting M.C., a child under the age of 16 years of
5 age, as the subject of a sexual portrayal or engaging in, simulating, or assisting others to engage
6 in or simulate sexual conduct, to-wit: an image of the said M.C. kneeling on a bed in the nude
7 with an apparent vibrator between her legs.

8 STEVEN B. WOLFSON
9 Clark County District Attorney
Nevada Bar #001565

10 BY

11 
12 JAMES R. SWEETIN
13 Chief Deputy District Attorney
14 Nevada Bar #005144
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Names of witnesses known to the District Attorney's Office at the time of filing this
Information are as follows:

A.S.; c/o CCDA-SVU/VWAC

B.S.; c/o CCDA-SVU/VWAC

BARR, CANDACE ESQ.; UNK

BERNAT, K.; SNCAC/CPS/DFS

DAVIS, K.; SNCAC/CPA/DFS

E.C.; c/o CCDA-SVU/VWAC

GUARDIAN of B.S.; c/o CCDA-SVU/VWAC

GUARDIAN of E.C.; c/o CCDA-SVU/VWAC

GUARDIAN of R.S.; c/o CCDA-SVU/VWAC

GUARDIAN of R.S.; c/o CCDA-SVU/VWAC

IACULLO; LVMPD#07857

KURAU; LVMPD#07047

M.C.; c/o CCDA-SVU/VWAC

MADSEN; LVMPD#07315

R.S.; c/o CCDA-SVU/VWAC

RAMIREZ; LVMPD#04916

SAMPLES; LVMPD#09354

SENA, DEBORAH; CCDC

SENA, TERRI; NSP/FMWCC

T.G.; c/o CCDA-SVU/VWAC

T.S.; c/o CCDA-SVU/VWAC

DA#14F14785X/hjc/SVU
LVMPD EV#1409151583
(TK03)


CLERK OF THE COURT

0014
PHILIP J. KOHN, PUBLIC DEFENDER
NEVADA BAR NO. 0556
309 South Third Street, Suite #226
Las Vegas, Nevada 89155
(702) 455-4685
Attorney for Defendant

DISTRICT COURT
CLARK COUNTY, NEVADA

In the Matter of the Application of,)	
)	CASE NO. C-15-311453-1
)	DEPT. NO. XIX
Christopher Sena,)	
for a Writ of Habeas Corpus.)	DATE:
)	TIME: _____

PETITION FOR WRIT OF HABEAS CORPUS

TO: The Honorable Judge of the Eighth Judicial District Court of
The State of Nevada, in and for the County of Clark

The Petition of Christopher Sena submitted by VIOLET R. RADOSTA, Deputy
Public Defender, and DAVID LOPEZ-NEGRETE as attorney for the above-captioned individual,
respectfully affirms:

1. That they are duly qualified, practicing and licensed attorneys in the City of
Las Vegas, County of Clark, State of Nevada.

2. That Petitioner makes application for a Writ of Habeas Corpus; that the place
where the Petitioner is imprisoned actually or constructively imprisoned and restrained of his liberty
is the Clark County Detention Center; that the officer by whom he is imprisoned and restrained is
Joseph Lombardo, Sheriff.

3. That the imprisonment and restraint of said Petitioner is unlawful in that: he is
being held on charges for which no probable cause has been shown

4. That Petitioner waives his right to be brought to trial within 60 days.

5. That Petitioner consents that if Petition is not decided within 15 days before
the date set for trial, the Court may, without notice of hearing, continue the trial indefinitely to a date

designated by the Court.

6. That Petitioner personally authorized his aforementioned attorney to commence this action.

WHEREFORE, Petitioner prays that this Honorable Court make an order directing the County of Clark to issue a Writ of Habeas Corpus directed to the said Joseph Lombardo, Sheriff, commanding him to bring the Petitioner before your Honor, and return the cause of his imprisonment.

DATED this 18th day of March, 2016.

PHILIP J. KOHN
CLARK COUNTY PUBLIC DEFENDER

By: /s/ Violet R. Radosta
VIOLET R. RADOSTA, #5747
Deputy Public Defender

By: /s/ David Lopez-Negrete
DAVID LOPEZ-NEGRETE, #12027
Deputy Public Defender

DECLARATION

VIOLET R. RADOSTA makes the following declaration:

1. I am an attorney duly licensed to practice law in the State of Nevada; I am the Deputy Public Defender assigned to represent the Defendant in the instant matter, and I am familiar with the facts and circumstances of this case.

2. That I am the attorney of record for Petitioner in the above matter; that I have read the foregoing Petition, know the contents thereof, and that the same is true of my own knowledge, except for those matters therein stated on information and belief, and as to those matters, I believe them to be true; that Petitioner, CHRISTOPHER SENA, personally authorizes me to commence this Writ of Habeas Corpus action.

I declare under penalty of perjury that the foregoing is true and correct. (NRS 53.045).

EXECUTED this 18th day of March, 2016.

/s/ Violet R. Radosta
VIOLET R. RADOSTA

1 **MEMORANDUM OF POINTS AND AUTHORITIES**
2 **IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS**

3 COMES NOW the Petitioner, CHRISTOPHER SENA, by and through his/her
4 counsel, VIOLET R. RADOSTA, the Clark County Public Defender's Office, and submits the
5 following Points and Authorities in Support of Defendant's Petition for a pre-trial Writ of Habeas
6 Corpus.

7 **STATEMENT OF FACTS**

8
9 **Procedural History**

10 Defendant, CHRISTOPHER SENA, is charged by way of State's Information with
11 the crimes of CONSPIRACY TO COMMIT SEXUAL ASSAULT (Category B Felony - NRS
12 200.364, 200.366, 199.480), SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS
13 OF AGE (Category A Felony - NRS 200.364, 200.366), LEWDNESS WITH A CHILD UNDER
14 THE AGE OF 14 (Category A Felony - NRS 201.230), SEXUAL ASSAULT WITH A MINOR
15 UNDER SIXTEEN YEARS OF AGE (Category A Felony - NRS 200.364, 200.), INCEST
16 (Category A Felony - NRS 201.180), OPEN OR GROSS LEWDNESS (Category D Felony - NRS
17 201.210), SEXUAL ASSAULT (Category A Felony - NRS 200.364, 200.366), PREVENTING OR
18 DISSUADING WITNESS OR VICTIM FROM REPORTING CRIME OR COMMENCING
19 PROSECUTION (Category D Felony - NRS 199.305), CHILD ABUSE AND NEGLECT,
20 SEXUAL ABUSE OR EXPLOITATION (Category B Felony - NRS 200.508(1)), POSSESSION
21 OF VISUAL PRESENTATION DEPICTING SEXUAL CONDUCT OF A CHILD (Category B
22 Felony - NRS 200.700, 200.730), USE OF MINOR IN PRODUCING PORNOGRAPHY (Category
23 A Felony - NRS 200.700, 200.710.1, 200.750) and USE OF MINOR UNDER THE AGE OF 14 IN
24 PRODUCING PORNOGRAPHY (Category A Felony - NRS 200.700, 200.710.1, 200.750). The
25 Co-Defendant's in this case are DEBORAH SENA and TERRIE SENA. The crimes allegedly
26 occurred on or between May 22, 2001 and June 30, 2014. The alleged victims are A.S., T.S., B.S.,
27 R.S., E.C., I.G., T.G., and M.C.

28 A preliminary hearing commenced in this matter on August 27, 2015 and was concluded

1 after four separate days of testimony on September 18, 2015. Justice of the Peace Janeice Marshall
2 requested written briefs on the bind over argument. The argument on the bindover was heard by
3 Justice of the Peace Marshall on December 15, 2015. After considering arguments from both sides,
4 Justice of the Peace Marshall held Mr. Sena to answer on 124 counts, although the State did declare
5 approximately 15 felony counts are charged in the alternative to other counts.

6 Mr. Sena entered a NOT GUILTY plea to all charges on January 20, 2016. Mr. Sena waived
7 his right to a speedy trial and the jury trial was set for the week of November 14, 2016.

8 The final transcript from the bindover argument was filed with District Court on February 9,
9 2016. Given the voluminous nature of the case, defense counsel contacted Chief Deputy DA James
10 Sweetin and Chief Deputy DA Mary Kay Holthus on February 28th, 2016 and requested an
11 extension of approximately 2 weeks beyond the on the 21 day requirement for the Petition of Habeas
12 Corpus. This Petition follows.

14 **Factual History**

15 Per the evidence presented by the State during the 4 days of preliminary hearing testimony
16 on August 27th and 28th, September 3rd and September 18th, this factual summary is presented in the
17 order of the witnesses presented by the State. Additionally, the defense will not extensively recite
18 the testimony of witnesses that are not relevant to this Petition. *In light of the voluminous nature of*
19 *the preliminary hearing transcript, the Defense has elected not to attach it as an exhibit. Should the*
20 *Court require a copy, the Defense will be happy to provide one.*

21
22 Terrie Sena –

23 Terrie Sena is the mother of A.S., T.S. and R.S. She is also the sister of M.C. and aunt to
24 E.C. and T.G. She was married to Christopher Sena from 1990 to 1997. After her divorce from
25 Mr. Sena, Terrie lived with him and their children at 6012 Yellowstone Avenue. She lived there, off
26 and on, from 1998 to 2014. Mr. Sena's second wife and the mother of B.S., along with B.S. also
27 lived at 6012 Yellowstone during the years of 1998-2014. R.S. was not the biological son of Mr.
28 Sena, despite having the same last name. PHT Vol. I, pp 12-17. Terrie Sena pleaded guilty to one

1 count of Sexual Assault and had already been sentenced to 10 years to life at the time of her
2 testimony. She also agreed to testify truthfully at all subsequent hearings as part of her plea
3 agreement. PHT Vol. I, pp 18-21.

4 Terrie Sena testified that there were 3 separate sexual incidents she participated in with her
5 biological son, R.S. and that all 3 incidents were recorded. She saw the red light on the computer
6 camera was on, so that indicated to her that they were being recorded. She also testified that there
7 were 2 incidents that she participated in with B.S. and that both of those incidents were also
8 recorded to her knowledge. PHT Vol. I, pp 33-47. Terrie Sena testified to multiple other sexual
9 activities she either participated in within the house or watched happen within the house. Those
10 other incidents are not being challenged within this writ.

11 Terrie Sena testified that Mr. Sena had her bring R.S. to the office on one occasion. She
12 unbuckled R.S.'s pants and performed fellatio. Mr. Sena was in the office while this was occurring.
13 According to Terrie Sena, she then performed fellatio on Mr. Sena. PHT Vol. I, pp 33-34. The
14 second incident Terrie Sena testified about occurred in the master bedroom. She took off her own
15 clothes. Mr. Sena 'had her undress R.S.' and then Terrie Sena got on top of R.S. and inserted his
16 penis into her vagina. Mr. Sena then also got on the bed and began having anal sex with Terrie at
17 the same time. After some amount of time, Terrie moved her position and stopped having
18 intercourse with R.S. and just continued having anal intercourse with Mr. Sena while R.S. was still
19 in the room. PHT Vol. I, pp 35-39. The third incident was in the office. Terrie unbuckled R.S.'s
20 pants, engaged in oral sex with him and then laid on her back to have sexual intercourse with him.
21 Per Terrie Sena's testimony, Mr. Sena had her get Ryan from the house and bring him back to the
22 office. PHT Vol. I, pp 44.

23 There were 2 incidents of sexual contact with B.S. Per her testimony, Terrie Sena got B.S.
24 from the house and brought him back to the office. She unbuckled his pants, took them off B.S., and
25 took off her own clothes. B.S. touched her breasts because Mr. Sena 'had him' touch her breasts.
26 Terrie then lay on her back and had sexual intercourse with B.S. The second incident also occurred
27 in the office. She unbuckled his pants, performed oral sex and engaged in sexual intercourse with
28 B.S. while lying on her back. B.S. touched her breasts because Mr. Sena made him, per Terrie

1 Sena's testimony. PHT Vol. I, pp 44-48.

2 Terrie also recalled an incident involving A.S. Terrie testified the incident occurred in the
3 living room and Mr. Sena was also present. A.S had taken off her clothes and was leaning over an
4 ottoman while touching Terrie Sena's breasts. Per Terrie Sena, Mr. Sena had her remove her own
5 top. Terrie Sena's testimony was that Mr. Sena was penetrating A.S. It was Terrie's opinion that
6 Mr. Sena was penetrating A.S. anally due to A.S's reaction. While this was allegedly happening,
7 Terrie Sena was sitting near A.S. on the couch facing her. A.S. was 17 when that alleged incident
8 occurred. PHT Vol. I, pp 48-52.

9 Terrie Sena also related details of a sexual interaction with herself and Deborah when R.S.
10 and B.S. were both approximately 5 years old. Terrie brought R.S. into the master bedroom at the
11 same time that Deborah brought B.S. into the bedroom. They each took off the pants of the boys
12 and Terrie placed her mouth on the penis of B.S. while Deborah placed her mouth on the penis of
13 R.S. Terrie testified that Mr. Sena made them bring the boys into the bedroom and made them
14 perform oral sex on the boys. PHT Vol. I, pp 52-53. She elaborated on cross that he made her and
15 Deborah perform oral sex by asking them to do it. There was no weapon involved and no threats of
16 physical violence against herself, Deborah or any of the children in order to persuade Terrie to put
17 her mouth on the penis of 5 year old B.S.¹ PHT Vol. I, pp 120-121.

18
19 Detective Vincente Ramirez

20 Las Vegas Metropolitan Police Detective Vincente Ramirez testified regarding the forensic
21 review of evidence seized in this case under LMVPD event #1409151583. PHT Vol. I, pp 212. The
22 defense will only provide a summary of the testimony that is pertinent to this writ.

23 Detective Ramirez reviewed videos and photographs that contained images of individuals
24 that he identified as Christopher Sena, Deborah Sena, Terrie Sena, T.S., B.S. and R.S. as well as
25 other alleged named victims not relevant to this writ.

26 Video #1 –

27
28 ¹ There are no charges against Mr. Sena, Terrie Sena or Deborah Sena relating to the allegation of Terrie Sena that she performed fellatio on B.S. when he was 5 years old. The State elicited this testimony of uncharged acts of Terrie Sena on direct.

1 Showed B.S. and Deborah Sena engaged in sexual acts. PHT Vol. I, pp 218.

2
3 Video #2 –

4 Detective Vincente Ramirez testified regarding the content of the video. Detective Ramirez
5 described the beginning of this alleged incident. Per the testimony of Detective Ramirez, the video
6 tape showed Deborah Sena fondling her own breasts after she removed her clothes and then
7 performing oral sex on Mr. Sena. The video then showed T.S. entering the frame with Mr. Sena
8 after Mr. Sena left the frame. The video then shows Deborah performing oral sex on T.S., followed
9 by her laying on her back while he inserted his penis into her vagina. Next, T.S. is laying on his
10 back while Deborah is on top of him engaging in sexual intercourse. Per Detective Ramirez's
11 testimony, the video shows Deborah helping T.S. insert his penis into her vagina while he is lying on
12 his back. Finally, Deborah is shown giving T.S. oral sex once again. Mr. Sena is present in the
13 room, and at times, on the bed having sexual intercourse with Deborah while Deborah is engaging
14 the various sexual acts with T.S. PHT Vol. 1, pp. 223-225. Detective Ramirez was unable to testify
15 to the actual words being spoken by anyone in the video. The video ended after T.S. left the room.
16 Mr. Sena was straightening up the bedroom and Deborah was with him. PHT Vol. 1, pp. 225.

17
18 Video #3 –

19 Detective Ramirez testified that this video showed someone setting up the camera and then
20 the image of a shower and shower curtain can be seen. Allegedly, Mr. Sena and T.S are then visible
21 in the frame. Deborah Sena enters the frame and gets into the shower with T.S. Mr. Sena is then
22 seen walking away from the shower. Both T.S. and Deborah are naked in the scene.

23
24 Video #4 –

25 Allegedly depicts a young woman in the shower.

26 Video #5 –

27 Allegedly depicts a young woman in the shower

28 Video #6

1 Detective Ramirez testified about video images of this event. He described seeing R.S. and
2 Terrie Sena in the room. Terrie Sena is helping R.S. remove his clothes. She then has him lay on
3 his back on the bed per Detective Ramirez. Next, Terrie removes her own clothes. After removing
4 both R.S.'s clothes and her own clothes, she begins performing oral sex on R.S. While that is
5 happening, Terrie is putting R.S.'s hand on her breast so that he can fondle her breast. During this
6 conduct, Mr. Sena is not in the video frame. After masturbating R.S., Terrie Sena performs oral sex
7 again. Afterwards, she lies on her back, and R.S. then moves towards her as she motions for him to
8 come closer. Terrie then begins having sexual intercourse with R.S. While she is having sexual
9 intercourse with R.S., Terrie Sena is massaging his buttocks. Once again, Mr. Sena is not in the
10 video frame. After Terrie and Ryan switch positions so that Ryan is lying on his back, Mr. Sena
11 enters the frame. Ryan remains on the bed on his back. Terrie Sena then begins to have sexual
12 intercourse on her hands and knees with Mr. Sena. While that is happening, Terrie Sena is
13 performing oral sex on R.S. Detective Ramirez did testify that people are speaking on the video,
14 but he could not testify as to specifically who or what is being said PHT Vol. II, pp. 10-14.

15
16 Video #7 –

17 Allegedly depicts a woman in the shower identified as T.G.

18 Video #8 –

19 Allegedly depicts a woman in the shower identified as E.C.

20
21 Detective Ramirez also testified about certain files that had been a video file that had broken
22 up when it when into the unallocated space. The images were of R.S., Terrie Sena and Mr. Sena.
23 There were approximately 4500 to 5000 still images that were the broken down frames from a video.
24 Ramirez testified that on still 1500, Terrie Sena was unbuckling R.S.'s shorts. Still 1640 allegedly
25 showed Terrie Sena's mouth on the penis of R.S. On still 4111, Terrie Sena again appeared to have
26 her mouth on the penis of R.S. Then, on still 4558, it appears that Terrie Sena's mouth is on the
27 penis of Mr. Sena and her hand is on the penis of R.S. PHT Vol. II, pp 18-23.

1 E.C.

2 E.C. testified she was 14 years old on the day of her preliminary hearing testimony. Her
3 mother is M.C., another alleged victim in this case. Mr. Sena is E.C.'s uncle through his marriage to
4 Terrie Sena. Terrie Sena is the sister of M.C.

5 E.C. would visit her aunt and cousins, R.S., A.S and T.S. at 6012 Yellowstone. From the
6 ages of 10 or 11 years old until she was 13, she would visit almost every weekend. E.C. testified
7 that when she was 11 years old, Mr. Sena allegedly touched her breasts and vagina. He would
8 allegedly touch her under her clothes. The alleged touching happened in the office sometimes at
9 night and sometimes during the day. PHT Vol. II, pp 51-53.

10 E.C. testified that she was allegedly touched more than one time, but said the touching was
11 always the same. He allegedly used his hands to touch her breasts and her vagina. There was no
12 penetration of her vagina when Mr. Sena allegedly touched her.

13 E.C. went over to the house almost every weekend between the ages of 11-13, except for the
14 period of time for a few years that the two families didn't talk. PHT Vol. II, pp 56-57.

15 E.C. couldn't remember if it happened every weekend she would visit, but also couldn't
16 remember if there was ever a weekend she wasn't allegedly touched. E.C. could not give any
17 details that separate one alleged incident from another. PHT Vol. II, pp 57-58.

18
19 T.S.

20 T.S. testified that he is the biological son of Terrie Sena and Christopher Sena. He was born
21 in 1994, so he was 20 years old on the day he testified. PHT Vol. II, pp 106-107.

22 T.S testified that when he was 14 or 15 there was an incident in the shower with his
23 stepmother Deborah Sena. He testified that after painting the house, he and Deborah got in the
24 shower and started cleaning each other. Deborah got in the shower first. She was naked and was
25 already in the shower when T.S. got into the shower. T.S. testified that Mr. Sena asked T.S. to get in
26 the shower as well. Once in the shower, Deborah gave T.S. a blowjob. T.S. testified that he didn't
27 ask her to do that. He also testified that no one told Deborah to give him a blow job. It was
28 something she did of her own free will. After the blowjob, Deborah bent over at the waist and his

1 penis 'went around her vagina area'. T.S testified that no one told Deborah to bend over. PHT Vol.
2 II, pp 110-114. Specifically regarding Mr. Sena, T.S. testified that he was walking in and out of the
3 bathroom occasionally. He also testified that it was Mr. Sena's idea to put his penis 'around her
4 vaginal area'. PHT Vol. II, pp 110-114.

5 Additionally, T.S. testified that one day he was called into the master bedroom by Mr. Sena.
6 When T.S. arrived, he found Mr. Sena naked. T.S. recalled this incident happened when he was 14
7 or 15. He removed his clothes when Mr. Sena told him to and then, Deborah Sena walked into the
8 room. She took her clothes off after entering the room. Once T.S entered the room, Deborah Sena
9 didn't say anything. Per T.S.'s testimony, Deborah's 'vaginal area went around [his] penis'.
10 Deborah also performed oral sex on T.S. before the sexual intercourse. When asked if there was
11 another incident of oral sex after the sexual intercourse, T.S. did not recall. PHT Vol. II pp. 115-120.

12
13 B.S.

14 B.S is the biological son of Deborah Sena and Christopher Sena. He was born August 13,
15 1998, which made him 17 years old on the day of his preliminary hearing testimony. PHT Vol. II pp
16 147-148.

17 B.S. testified about alleged sexual acts with himself and Terrie Sena that occurred in the back
18 office. He was 14 years old when Terrie Sena allegedly performed oral sex on him. Per his
19 testimony, Mr. Sena was present when this allegedly occurred. Terrie Sena also engaged in sexual
20 intercourse with B.S. on that day. B.S. also testified that he touched her boobs on that day. B.S.
21 recalled that there was a second separate incident when Terrie Sena performed oral sex on him.
22 PHT Vol. II pp 153-159.

23 B.S. also testified about an incident with Deborah Sena. Per his testimony, Mr. Sena dragged
24 B.S. into the master bedroom and had him strip. Deborah Sena was already in the room and she was
25 naked on the bed. B.S lay on the bed and then Deborah Sena got on top of him and inserted his
26 penis into her vagina. Per his testimony, Deborah also performed oral sex on him that day as well.
27 Per his testimony, Deborah was forced to perform fellatio that day, but no further details were
28 testified to regarding how she was forced. PHT Vol. II pp165-168.

1 A.S.

2 A.S. testified her birth date is May 22, 1990. PHT Vol. III, pp 6. She was 25 years old on
3 the day of her testimony and she also testified that she graduated high school in 2008. Her
4 biological mother is Terrie Sena and her biological father is Mr. Sena.

5 According to A.S., the first incident of sexual contact was when she was 11 years old when
6 she was living at 6012 Yellowstone Avenue in Las Vegas. She was in the living room, and Mr.
7 Sena came in and asked her to take her clothes off. A.S. did and then Mr. Sena allegedly started
8 touching her breasts. He also allegedly touched her lower region which A.S. also called her pussy
9 area. He touched her vagina with his hands and rubbed her clitoris. He was allegedly touching her
10 between the lips of her vagina per her testimony. He asked her to get on the bed and then started
11 rubbing his penis against her. Mr. Sena had allegedly unzipped his pants and was rubbing his penis
12 against her vagina. A.S. was lying on her back on the bed with her legs hanging over the edge. Mr.
13 Sena allegedly lifted her legs off the bed and penetrated her anus with his penis. Afterwards, Mr.
14 Sena told her to get dressed. PHT Vol. III, pp 12-17.

15 A.S testified that similar conduct happened frequently until 2009 when she was 19 years old.
16 She said it allegedly happened twice a week, almost every week. She turned 19 in 2009 when the
17 conduct became less frequent. Between the ages of 11 and 13, A.S. testified that similar conduct
18 occurred in the living room, her room, the master bathroom, master bedroom and the boys' room.
19 PHT Vol. III, pp 17-19. The conduct was similar to the first time, but sometimes he would also rub
20 her boobs. That alleged conduct happened sometimes more than once a week and sometimes less
21 than once a week, but at least once a month. PHT Vol. III, pp 21.

22 At the age of 14, the alleged conduct by Mr. Sena changed, per A.S's testimony. She alleged
23 that one day after she turned 14, she was taking a shower and Mr. Sena got into the shower with her.
24 He allegedly touched her breasts and had her 'go up against the wall.' Per her testimony, Mr. Sean
25 allegedly inserted his penis into her vagina that day, taking her virginity. After the first time, the
26 same conduct would happen once every two to three weeks. A.S. testified that vaginal intercourse
27 would occur in the living room, the boys' bedroom, the master bedroom, the bathroom and A.S.'s
28 room. A.S. stated that sometimes there would be anal intercourse when there was vaginal

1 intercourse, sometimes it would only be anal and sometimes it would only be vaginal. No other
2 details were described by A.S. regarding the various incidents of vaginal and anal intercourse. PHT
3 Vol. III, pp 22-25.

4 A.S. also testified about the alleged first incident of her performing oral sex on Mr. Sena.
5 She testified she was 12 years old. No other details were given regarding the first incident of oral
6 sex. A.S. said that oral sex would happen once or twice a month or sometimes not at all in a month
7 until she was 23 years old in 2013. The alleged incidents of oral sex occurred either in the living
8 room or the master bedroom. PHT Vol. III, pp 26.

9 A.S. recalled the last time 'he did anything' to her was in January 2013. She could not recall
10 any details about the last incident. She recalled it was January, 2013 because she knew it was the
11 January before she moved out of the house at 6012 Yellowstone with B.S. and Deborah. PHT Vol.
12 III, pp 27. On cross examination, A.S. realized that she moved out of the house in 2014, so she
13 amended her testimony regarding the date of the last alleged incident to January of 2014. PHT Vol.
14 III, pp 43.

15 A.S. then testified regarding an incident of anal intercourse when Terrie Sena was present.
16 A.S. was 14 years old, but could not recall the month or the day of the week. A.S. recalled that the
17 incident occurred in the office and the subject turned to sex with Mr. Sena, Terrie and A.S. Mr.
18 Sena got undressed and A.S. got undressed, but Terrie 'became undressed' during the incident per
19 A.S.'s testimony. Terrie Sena gave Mr. Sena oral sex and A.S. watched while that was happening.
20 After the oral sex, Mr. Sena inserted his penis into A.S.'s anus and Terrie watched. A.S. was crying
21 during the alleged incident. After that incident, A.S.'s attitude towards her mother became more
22 hateful. PHT Vol. III, pp 28-32.

23 Finally, A.S. testified regarding an alleged incident between herself and Deborah Sena. A.S.
24 was 17 or 18. It was right before the end of the school year and A.S. was graduating high school.
25 When A.S. arrived home, Mr. Sena was already naked in the living room and then Deborah came
26 into the living room. She was also naked. Per A.S., Mr. Sena wanted the two women to 'play with
27 each other'. A.S. lay down on the floor and Deborah got on top of her. A.S. testified that she
28 played with Deborah's clitoris because she had to. Deborah only touched the outside of A.S.'s

1 vagina. There was no penetration of A.S.'s vagina. Per A.S.'s testimony, he was 'pretty much'
2 telling them what to do. At some point, Mr. Sena inserted his penis into A.S.'s vagina. Then, he
3 allegedly inserted his penis into Deborah's vagina or anus. Deborah was still on top of A.S. while
4 these alleged incidents were occurring. A.S. got out from underneath Deborah at Mr. Sena's
5 request. There was still sexual activity happening between Mr. Sena and Deborah on the floor of the
6 living room. Per her testimony, A.S. then touched her own vagina because Mr. Sena told her to.
7 PHT Vol. III, pp 33-38, 50. The boys got home from school approximately one hour after the
8 incident ended. Additionally, Terrie was not home during the alleged incident. PHT Vol. III, pp 48-
9 49.

10 A.S testified that Mr. Sena threatened her over the years that if she told about the abuse she
11 would be sent away or sent to juvie. PHT Vol. III, pp 40.

12 A.S. once again was asked about the frequency of the alleged incidents. She testified that
13 primarily from 11-14 years of age, the sexual contact was anal intercourse. She further testified
14 from 14- 23 years of age it was both anal and vaginal intercourse. She attempted to clarify by
15 stating sometimes the anal intercourse and vaginal intercourse were at the same time, sometimes
16 different times depending on the day. Anal intercourse was always at least once a month, and,
17 without a doubt, at least once a year from the age of 11 to 23. PHT Vol. III, pp 40-41. No additional
18 details about the individual incidents were elicited by the State.

19
20 R.S.

21 R.S. is the biological son of Terrie Sena. R.S. stated that the alleged abuse by Mr. Sena
22 started when he was 12 or 13 years old; when he was in 7th or 8th grade in junior high. PHT Vol. IV,
23 pp 20. He also testified that the alleged abuse stopped for a period of time when he was 15 years
24 old. PHT Vol. IV, pp. 36. R.S. testified that he recalled Mr. Sena touching the area of his behind
25 where the poop comes out. R.S. testified that he was touched by Mr. Sena's dick. This happened
26 when he was 12 or 13. He also testified that it allegedly happened in his bedroom when Mr. Sena
27 walked into R.S.'s bedroom and made him take off his clothes. The alleged incident occurred on the
28 floor of the bedroom. PHT Vol. IV, pp. 25-27. R.S. also testified regarding an alleged incident in

1 the living room. He testified regarding the alleged details of Mr. Sena making R.S sit on Mr. Sena's
2 dick while he was sitting on the couch. PHT Vol. IV, pp. 33-35.

3 R.S. recalled 2 separate incidents with his mother Terrie Sena. One incident happened in the
4 office and the other in 'his' room. The first incident R.S testified about was the incident in Mr.
5 Sena's room, apparently 'his' room. R.S. did not remember his age or what grade he was attending
6 in school. He did remember he was under the age of 16, though. R.S. went into the room because
7 his mother was in there. Once in there, she began taking off his clothes. Mr. Sena was not in the
8 room when R.S.'s clothes were removed. R.S. got on the bed and then, Terrie Sena removed her
9 clothes. After removing her clothes, she started performing oral sex on R.S. R.S alleges that then
10 Mr. Sena 'made' Terrie Sena get on her back on the bed, and then makes R.S. get on top of her.
11 Terrie Sena had sexual intercourse with R.S. According to R.S., Mr. Sena makes him get off Terrie
12 Sena. He then lies on the bed and she performs oral sex again on R.S. PHT Vol. IV, pp 41-46.

13 The second alleged incident between Terrie Sena and R.S. occurred in the office. R.S
14 testified that he came into the room for help with an ingrown toenail. Mr. Sena was the person R.S.
15 was seeking the help from in the office. After arriving in the office and talking with Mr. Sena for a
16 while, Terrie Sena also came into the office. Once in the office, Terrie Sena took off R.S.'s clothes.
17 She also took off her own shirt. She then performed fellatio on R.S. After a while, Terrie Sena
18 started performing oral sex on Mr. Sena at the same time, alternating between R.S. and Mr. Sena.
19 PHT Vol. IV, pp 49-50.

20 Additional witnesses presented by the State were Detective William Kurau, M.C. and T.G.
21
22
23

24 POINTS AND AUTHORITIES

25 Nevada Revised Statutes 171.206 states, in pertinent part,
26

27 If from the evidence it appears to the magistrate that there is probable cause to believe that an
28 offense has been committed and that the defendant has committed it, the magistrate shall
forthwith hold him to answer in the district court; otherwise the magistrate shall discharge
him. . .

1 The Nevada Supreme Court has held that although the State's burden at the preliminary
2 hearing is 'slight, it remains incumbent upon the state to produce some evidence' as to each of the
3 State's burdens. Woodall v. Sheriff, 95 Nev. 218, 220 (1979); see also Marcum v. Sheriff, 85 Nev.
4 175, 178 (1969) ('The state must offer some competent evidence on those points to convince the
5 magistrate that a trial should be held').

6 'The purpose of the preliminary proceedings is to weed out groundless or unsupported
7 charges of grave offense and to relieve the accused of the degradation and the expense of a criminal
8 trial. Many unjustifiable prosecutions are stopped at that point, where the lack of probable cause is
9 clearly disclosed.'). Probable cause requires that there shall be more evidence for guilt than against.
10 It must be supported by evidence which inclines the mind to believe, though there may be room for
11 doubt. The state of facts must be such as would lead a man of ordinary caution and prudence to
12 believe and conscientiously entertain a strong suspicion. State v. von Brincken, 86 Nev. 769, 773,
13 476 P.2d 733, 735 (1970).

14 The district court may grant a pretrial petition for a writ of habeas corpus where the
15 prosecution acted in a willful or consciously indifferent manner with regard to a defendant's
16 procedural rights, or where the defendant is bound over on criminal charges without probable cause.
17 Dettloff v. State, 120 Nev. 588, 97 P.3d 586 (2004).

18
19
20 I. The State failed to produce sufficient evidence that Christopher Sena committed the
21 crime of conspiracy to commit sexual assault and failed to produce sufficient
22 evidence that Mr. Sena conspired with anyone in the commission of any crime
alleged in the Information.

23 Conspiracy is an agreement between two or more for an unlawful purpose. Unlawful
24 agreement is the essence of conspiracy. Conspiracy is committed upon reaching the unlawful
25 agreement. Nunnery v. Eighth Judicial District Court, 124 Nev. 477, 480 (2008). However, absent
26 an agreement to cooperate in achieving the purpose of a conspiracy, mere knowledge of,
27
28

1 acquiescence in, or approval of that purpose does not make one a party to conspiracy.” Bolden v.
2 State, 121 Nev. 908.

3 The State specifically alleges that Christopher Sena conspired with Deborah Sena and/or
4 Terrie Sena to commit the crime of sexual assault against A.S., T.S. B.S. and R.S. The State failed
5 to produce any evidence of an agreement between Deborah Sena, Terrie Sena and Christopher Sena.
6 Evidence of an agreement, specifically an unlawful agreement is necessary to support a charge of
7 conspiracy. (Nunnery v. Eighth Judicial District Court, 124 Nev. 477, 480 (2008)). The State seems
8 content to show that Christopher Sena was present when Deborah Sena and/or Terrie Sena
9 committed acts of Sexual Assault, and then rely the nature of the charge of Sexual Assault of a
10 Minor to compensate for the lack of evidence of an agreement. The Nevada Supreme Court has
11 specifically stated “[t]he unlawful agreement is the essence of the crime of conspiracy”. Id. While
12 the State may attempt to point to certain acts on the part of Mr. Sena as evidence of the conspiracy,
13 such speculation is not required in this case. The State called one of the co-conspirators to testify
14 during the preliminary hearing of Mr. Sena. Terrie Sena was the first witness the State called on
15 August 28, 2015. She had already entered a plea of guilty and pursuant to that plea agreement; she
16 was required to testify truthfully at the preliminary hearing of Christopher Sena. PHT Vol.I, pp 20.
17 At no point in her testimony during the preliminary hearing did Terrie Sena testify that there was
18 any agreement between Christopher Sena and herself to commit the act of sexual assault against any
19 of the alleged victims named in the Information. If the State had the evidence of an agreement
20 between Christopher and Terrie Sena, they would have presented it. Terrie Sena was required to
21 testify truthfully at that proceeding and yet, the State never asked her the question regarding the
22 existence of an agreement. Without such testimony, the State failed to produce sufficient evidence
23 to support the charge of Conspiracy to Commit Sexual Assault. The defense respectfully requests
24 Count 1 be dismissed.
25
26
27
28

1 Finally, the defense requests the conspiracy language be stricken from every count where it
2 is alleged as a theory of the State. In light of the lack of evidence of an unlawful agreement
3 presented by the State, the language should be stricken in counts 46-52; 54-59; 61-77; 79-85; 95-99;
4 101-103 and 105.

5
6 II. Regarding counts 8-20 and 23-45 which list A.S. as the alleged victim, the State
7 failed to present sufficient evidence of specificity of dates and specificity of details to
8 support the charges of Sexual Assault Minor under 14, Lewdness with Child under
9 14, Incest, Sexual Assault under 16, Open and Gross Lewdness, and Sexual Assault

10 When A.S. testified at the preliminary hearing on September 3, 2015, she confirmed her birth
11 date was May 22, 1990. PHT Vol. III, pp 6. She was 25 years old on the day of her testimony and
12 she also testified that she graduated high school in 2008. The State elicited testimony from A.S.
13 regarding 3 different time frames. The first time frame was May 22, 2001-May 21, 2004 and Mr.
14 Sena was bound over on Counts 2-20 from that period of time. A.S. was 11-13 years old during
15 those years. The second time frame was May 22, 2004-May 21, 2006, when A.S. was 14-15 years
16 old. Mr. Sena was bound over on counts 21-30 from that time frame. Finally, there was testimony
17 regarding May 22, 2006-August 20, 2014 which referred to counts 31-45. A.S. was 16-24 years old
18 during that time frame.

19 The State has charged Mr. Sena with a total of 52 counts naming A.S. as the alleged victim
20 of various sexual crimes, most of which carry potential life sentences. The particulars provided by
21 A.S. regarding the alleged incidents of abuse are extremely general and vague. She was unable to
22 provide specific details, which makes it almost impossible for the defense to effectively investigate
23 and ultimately defend the allegations. Without the benefit of details, the Defense is limited to
24 certain strategies, which violates Mr. Sena's Due Process Rights. While the lack of detailed
25 testimony is not a new concept in sex assault cases, the State still has to present some particulars in
26 their attempt to bind Mr. Sena over on these charges. The Nevada Supreme Court has addressed this
27 issue previously in LaPierre,
28

1 "We have held that the testimony of a sexual assault victim alone
2 sufficient to uphold a conviction. However, the victim must testify
3 with some particularity regarding the incident in order to uphold the
4 charge. We are cognizant that child victims are often unable to
5 articulate specific times of events and are oftentimes reluctant to report
6 the abuse to anyone until quite some time after the incident. We also
7 understand that it is difficult for a child victim to recall exact instances
8 when the abuse occurs repeatedly over a period of time. We do not
9 require that the victim specify exact numbers of incidents, but there
10 must be some reliable indicia that the number of acts charged actually
11 occurred. **In this case, the child's testimony consisted of their
12 speculation that it must have happened at least ten times.
13 Something more is required to support a conviction.** LaPierre v.
14 State, 108 Nev. 528, 531 (1992). (emphasis added).

15 The Nevada Supreme Court has also addressed the need for detailed testimony regarding the
16 time frame of the alleged incidents. The State is not 'absolutely required to alleged the exact date'
17 of an allegation of a sexual offense on a child. Cunningham v. State, 100 Nev. 396, 400 (1984).
18 However, 'the state should wherever possible, allege the exact date on which it believes a crime was
19 committed, or as closely thereto as possible.' Id.

20 While the State is only required to present slight evidence that the alleged crimes occurred,
21 as stated above, the purpose of the preliminary hearing is to weed out groundless charges prior to the
22 expense and consumption of time that a criminal trial would incur. Additionally, the State must
23 present some amount of specificity and detail regarding the alleged crimes. LaPierre v. State, 108
24 Nev. 528, 531 (1992). Throughout most of her testimony, A.S. failed to provide the requisite
25 specificity or detail required for a finding of probable cause.

26 The testimony provided by A.S. regarding counts 8- 20² is generally about various different
27 sexual acts including anal intercourse, fellatio and touching the breasts of A.S. by Mr. Sena. Counts
28 8-13 all allege anal intercourse (Sexual Assault Minor under 14) or using his penis to touch or rub
the anal area of A.S. (Lewdness with a Child). A.S. testified that the alleged act of anal intercourse
happened frequently from May, 2001 through 2009. A.S. testified that it started when she was 11
(in 2004) and continued until 2009 two or three times a week. The only details provided by A.S.
regarding the alleged anal intercourse is that the act happened, over the course of the 8 years she was

² Regarding Counts 2-7, it appears that those counts refer to the testimony on PHT Vol III, pp12-17, which A.S. testified was the alleged 'first incident'. The defense is not challenging Counts 2-7 for lack of specificity.

1 referring to, in her room, in the master bath, in the master bedroom, the living room and the boys'
2 room. It happened with the most frequency in the master bedroom and the living room. Sometimes,
3 in addition to anal intercourse, A.S. alleged Mr. Sena would rub his hands on her boobs.³ That
4 happened at least once a month, but sometimes it would be more than once a week, sometimes less
5 than once a week. PHT Vol. III, pp 19-21.

6 A.S. also testified that the first alleged incident of fellatio occurred when she was 12 years
7 old.⁴ PHT Vol. III, pp 26. No other details were provided by the State regarding alleged acts of
8 fellatio by A.S. on Mr. Sena. To contrast it with her description of the alleged 'first incident' of
9 sexual contact with Mr. Sena referenced in footnote 2, she did not describe how the incident began
10 or how it ended. She did not describe how long it lasted, what occurred during the alleged incident
11 or what clothes she or Mr. Sena were wearing. No room in the house was described nor what time
12 of day or night. The only detail provided was that A.S. was 12 years old. **That is the entirety of**
13 **the testimony regarding counts 8-20 elicited from A.S. by the State.**

14 A.S. testified the first time she allegedly had sexual intercourse with Mr. Sena, she was 14
15 years old and it occurred in the shower.⁵ Regarding Counts 23-45, the only detail that changed from
16 one alleged incident to another was her age. She testified that the acts alleged in counts 23-45
17 occurred both before and after her 16th birthday. PHT Vol. III, pp 18, 26. When asked about the
18 specific act of sexual intercourse and where it occurred in the residence of 6012 Yellowstone, A.S.
19 testified it occurred in the bathroom, the master bathroom, her room, the boys' room and the living
20 room. PHT Vol. III, pp 24. No other details were provided by A.S. A.S. testified that sometimes
21 there would be incidents of anal intercourse and sexual intercourse during the same encounter and
22 sometimes it would just be anal intercourse or sexual intercourse. PHT Vol. III, pp 25. No further
23 details as to her age (which could have been anywhere from 14 to 23, when she moved out) were
24 elicited by the State. Furthermore, A.S. testified that she gave Mr. Sena a blow job "not very often .
25 . . once or twice every month, some months not at all." The first alleged incident was when A.S. was
26 12 years old and it allegedly continued until she moved out at the age of 23. PHT Vol. III, pp 26.

27
28 ³ Counts 10, 13 and 18 reference the allegation of touching/rubbing the breast of A.S.

⁴ Count 14 and 15 reference the allegation of fellatio.

⁵ Counts 21 and 22 refer to the alleged first incident of sexual intercourse and testimony on PHT Vol. III, p 22.

1 As stated in LaPierre, speculation that something must have happened at least ten times is not
2 enough detail to sustain a charge. That is exactly what is happening in counts 8-20 and 23-45.
3 Absolutely no detail has been provided. No specificity of where in the master bedroom or living
4 room or master bathroom the alleged acts of Sexual Assault, etc. occurred. No details as to how
5 long each incident lasted, how it began or how it ended was elicited. No specific number regarding
6 how many alleged incidents occurred in A.S.'s room versus how many times it occurred in the boys'
7 room. No details regarding what A.S. was wearing, how her clothes were removed or how Mr.
8 Sena's clothes were removed or if they were removed at all. The State was able to elicit such details
9 regarding counts 2-7 and counts 21 and 22, so it becomes clear that A.S. is able to describe certain
10 alleged incidents with some detail albeit minimal. In light of the lack of specificity provided
11 regarding counts 8-20 and 23-45, the defense respectfully requests those counts be dismissed.

12 It is worth remembering that the LaPierre case and Cunningham case allow for some leniency
13 on the issue of specificity due to the temperament of child victims/witnesses. "We also understand
14 that it is difficult for a child victim to recall exact instances when the abuse occurs repeatedly over a
15 period of time." LaPierre v. State, 108 Nev. 528, 531 (1992). It is also worth noting though, that
16 A.S. was 25 years old when she testified. She was not a child witness as was the case in both
17 LaPierre and Cunningham. She is an adult and should be treated as such by this Court. There is a
18 severe lack of detail to the testimony of A.S. As such, the defense respectfully requests that Counts
19 8-20 and 23-45 be dismissed.

20
21 III. Regarding counts 107-114, which list E.C. as the alleged victim, the State failed to
22 present sufficient evidence of specificity of dates and specificity of details to support
the charges of Lewdness with a Child

23 E.C. testified that she is the niece of Terrie Sena and that she would visit the residence on
24 6012 Yellowstone to visit her Aunt Terrie and her cousins, A.S., T.S. and R.S. E.C. also testified
25 that when she was 11 years old, Mr. Sena allegedly touched her breasts and her vagina. PHT Vol. II,
26 pp 52-53. She testified that it occurred in the office, but could not recall if it happened during the
27 day or during the night. She testified that it happened more than once and that it was 'always the
28

1 same'. She testified that she visited the residence almost every weekend between the ages of 11 to
2 12 or 13. She also recalled during this period of time, her family didn't speak with Terrie's family
3 for a few years. PHT Vol. II, pp 57. She testified she didn't remember if it happened every
4 weekend she visited. She didn't remember if there was a weekend it didn't happen. Sometimes it
5 occurred at night and sometimes it occurred during the daytime. When specifically asked for details
6 to separate one alleged incident of touching from another, she was unable to provide any specific
7 details. When asked if it happened a lot of the weekends she was in fifth grade, she testified yes.
8 She could not provide details as to the type of clothes she was wearing for any individual alleged
9 incident including the first or last.
10

11 Most interestingly, when asked if she specifically remembered it happening when she was in
12 6th grade, E.C testified she didn't remember. She also didn't remember if it happened in 7th grade.
13 PHT Vol. II, pp 60. She also specifically answered that she didn't remember it happening after 5th
14 grade. PHT Vol. II, pp 62. Then, a moment later in her testimony, when asked again by the
15 prosecutor if she definitely remembered it happening in 6th grade, she answered affirmatively. She
16 also answered affirmatively about 7th grade, when asked a second time by the State. PHT Vol. II,
17 pp 64. The testimony of E.C. provides absolutely no specificity regarding any counts of Lewdness
18 with a Minor. While she was able to testify the alleged touching of her vagina and breast occurred at
19 least one time, it is completely unknown when that alleged incident occurred when viewing her
20 testimony in its entirety. Maybe it happened when she was in 5th grade, maybe 6th or maybe 7th, if
21 it happened at all.
22

23
24 Once again, it is the La Pierre case that is important. "The victim must testify with some
25 particularity regarding the incident in order to uphold the charge. . . We do not require that the
26 victim specify exact numbers of incidents, but there must be some reliable indicia that the number of
27 acts charged actually occurred. In this case, the child's testimony consisted of their speculation that
28

1 it must have happened at least ten times. Something more is required to support a conviction.”

2 LaPierre v. State, 108 Nev. 528, 531 (1992).

3 Additionally, it is unclear from the testimony elicited by the State if the acts of touching her
4 breast and touching her vagina occurred on the same day as part of one interaction, or if they
5 occurred separately. The only details about the touching provided by E.C. were that Mr. Sena used
6 his hands to touch her breasts and used his hands to touch her vagina. PHT Vol. II, pp 55. Finally,
7 beyond the allegation of one incident of touching, E.C. clearly had no details to offer regarding the
8 additional 6 counts of Lewdness with a Child. The defense respectfully requests the Court dismiss
9 counts 107-114.
10

11
12
13 IV. Regarding counts 91-92 which list R.S. as the alleged victim, the State failed to
14 present sufficient evidence to support the charges of Sexual Assault Minor under 14
15 and Lewdness with Child under 14

16 Counts 91 and 92 are charged in the alternative and they allege anal intercourse and/or
17 touching the anal area of R.S. R. S. testified that he was present in court because he had been
18 sexually abused by Mr. Sena. R.S. stated that the alleged abuse started when he was 12 or 13 years
19 old; when he was in 7th or 8th grade in junior high. PHT Vol. IV, pp 20. He also testified that the
20 alleged abuse stopped for a period of time when he was 15 years old. PHT Vol. IV, pp. 36. R.S.
21 testified that he recalled Mr. Sena touching the area of his behind where the poop comes out. R.S.
22 testified that he was touched by Mr. Sena’s dick. This happened when he was 12 or 13. He also
23 testified that it allegedly happened in his bedroom when Mr. Sena walked into R.S.’s bedroom and
24 made him take off his clothes. The alleged incident occurred on the floor of the bedroom. PHT Vol.
25 IV, pp. 25-27. R.S. also testified regarding an alleged incident in the living room. He testified
26 regarding the alleged details of Mr. Sena making R.S sit on Mr. Sena’s dick while he was sitting on
27 the couch. PHT Vol. IV, pp. 33-35. Beyond these two incidents, R.S provided no additional details
28

1 for the additional count of Sexual Assault Minor under 14/Lewdness of Minor under 14 that is the
2 basis of Counts 91-92. While R.S did testify that incidents occurred in the living room, his bedroom
3 and 'his room". PHT Vol. IV, pp 36, he only described 2 incidents. R.S. described one incident in
4 his bedroom and one incident in the living room. There was no testimony regarding an additional
5 incident when R.S. was under the age of 14. As a result, the defense respectfully requests Counts
6 91- 92 be dismissed.
7

8
9
10 V. Regarding Counts 55, 57, 70, 81, and 84 the State failed to produce sufficient
11 evidence of the crime of Child Abuse, Neglect or Endangerment – Sexual Abuse by
failing to prove the element of physical pain and/or mental suffering

12 Counts 55 and 57 allege that T.S. was the victim of Child Abuse and Neglect per NRS
13 200.508 (1) sometime between December 2, 2008 and December 1, 2010 when Deborah Sena
14 washed him while he was in the shower and when Deborah Sena touched and/or rubbed his penis
15 either with her hands or between her legs. Mr. Sena was alleged to have participated in these crimes
16 either under a theory of direct liability, a conspiracy theory or an aiding/abetting theory.
17

18 Counts 70, 81 and 84 alleged that B.S. is the victim of the same crime. The crimes allegedly
19 occurred sometime between August 13, 2011 and June 30, 2014. The specific allegation in Count
20 70 is that B.S. was the victim of child abuse when he engaged in sexual intercourse with Deborah
21 Sena. Counts 81 and 84 allege that B.S. fondled and/or touched the breasts of Terrie Sena. Once
22 again, Mr. Sena is charged under the theories of direct liability, conspirator liability and/or aiding or
23 abetting.
24

25 NRS 200.508(1)(b) states:

26
27 A person who willfully causes a child who is less than 18 years of age to suffer
28 unjustifiable physical pain or mental suffering as a result of abuse or neglect or to be
placed in a situation where the child may suffer physical pain or metal suffering as
the result of the abuse or neglect is guilty of a category B felony.

1 The statute clearly requires proof of physical pain or mental suffering for the State to charge
2 Mr. Sena with this particular crime. T.S. testified on August 28, 2015. He testified that on that day
3 he was 20 years old and that Terrie Sena and Christopher Sena were his biological mother and
4 father. Deborah Sena was Christopher's second wife and T.S.'s stepmother. PHT Vol. II, pp. 107-
5 108. T.S. testified about an incident in the shower of the family's house when he was 14 or 15.
6 Deborah got in the shower with T.S. and performed various sexual acts. PHT Vol. II, pp. 110-112
7 He also described another incident on a different day in the master bedroom. Mr. Sena and Deborah
8 were both present in the master bedroom and various sexual acts occurred. PHT Vol. II, pp. 115-
9 120. T.S. did not testify that he suffered any physical pain as a result of the sexual acts. He also
10 failed to testify regarding any mental suffering he was experiencing. He even denied seeking out or
11 attending any therapy or counseling since he had moved out of the house. PHT Vol. II, pp.145. The
12 defense respectfully requests Counts 55 and 57 be dismissed due to the State's failure to prove the
13 element of physical pain and/or mental suffering by slight evidence.
14

15
16 B.S. testified on August 28, 2015. He testified that he was currently 17 years old and that his
17 biological parents were Deborah Sena and Christopher Sena. Terrie Sena was Christopher Sena's
18 first wife who also lived at the same residence with B.S., Deborah and Christopher. PHT Vol.II,
19 pp147, 151. B.S. testified about 2 alleged incidents of sexual intercourse happening with Terrie
20 Sena when he was 14 or 15 years old. Both alleged incidents occurred in the back office of the
21 residence. B.S. recalled having sexual intercourse with Terrie Sena and touching her breasts during
22 the incidents. PHT Vol. II, pp. 155-156. B.S also testified about an incident with Deborah Sena
23 when he engaged in sexual intercourse in the master bedroom. Deborah also performed oral sex on
24 B.S. during that alleged incident. PHT Vol. II, pp 165-168. Despite the testimony about the alleged
25 sexual encounters, the State did not elicit evidence regarding any physical pain B.S. suffered from
26 these incidents or mental suffering. The State failed to produce sufficient evidence of an element of
27
28

1 the crime charged in counts 70, 81 and 84. In light of this, the defense requests Counts 70, 81 and
2 84 be dismissed for failure to provide slight evidence of a required element of NRS 200.508(1)(b).

3 VI. Regarding Counts 105 and 117, the State failed to produce sufficient evidence of the
4 crime of Child Abuse, Neglect or Endangerment – Sexual Exploitation by failing to
5 prove the element of physical pain and/or mental suffering

6 Count 105 alleges that R.S. was the victim of Child Abuse and Neglect due to Sexual
7 Exploitation when Mr. Sena showed R.S. photos and/or videos of Mr. Sena having sex with either
8 Terrie Sena or Deborah Sena or nude photos of Terrie Sena and/or Deborah Sena. The conduct
9 allegedly occurred one time sometime between June 14, 2010 and June 13, 2014.

10 Count 117 alleges that T.G. was the victim of Child Abuse and Neglect due to Sexual
11 Exploitation when Mr. Sena showed her photos of nude individuals engaged in sexual activity. The
12 alleged incident occurred one time between January 9, 2004 and January 8, 2013.

13
14 NRS 200.508(1)(b) states:

15 A person who willfully causes a child who is less than 18 years of age to suffer
16 unjustifiable physical pain or mental suffering as a result of abuse or neglect or to be
17 placed in a situation where the child may suffer physical pain or metal suffering as the
18 result of the abuse or neglect is guilty of a felony.

19 (a) If the child is less than 14 years of age and the harm is the result of sexual abuse or
20 exploitation . . .

21 Sexual exploitation is defined in NRS 432B.110 as

22 Forcing, allowing or encouraging a child

23 (1)

24 (2) to view a pornographic film or literature; and

25 (3)

26 NRS 200.508 still requires there be a showing of physical pain or mental suffering for this
27 crime. Once again, the State failed to provide testimony from either R.S. or T.G. that there was any
28 physical pain or mental suffering as a result of this alleged behavior on the part of Mr. Sena. The

1 defense respectfully requests counts 105 and 117 be dismissed due to the lack of evidence produced
2 by the State regarding physical pain or mental suffering.

3 VII. Regarding Counts 54-58 and 61-68, the State failed to produce sufficient evidence
4 that Mr. Sena aided and abetted Deborah Sena in the commission of the crimes of
5 Sexual Assault Minor under 16, Child Abuse/Neglect/Endangerment, Open or Gross
6 Lewdness and Sexual Assault against T.S.

7 Regarding Counts 54-58 and 61-68, the State failed to produce sufficient evidence
8 that Mr. Sena directing committed the crimes of Sexual Assault Minor under 16,
9 Child Abuse/Neglect/Endangerment, Open or Gross Lewdness and Sexual Assault
10 against T.S

11 For the Court's clarification, Mr. Sena is charged in Counts 54-58 and 61-68 with
12 committing the alleged crimes under the theories of direct liability, conspirator liability and aiding
13 and abetting. The defense previously argued under Section I of this Petition that the State failed to
14 prove the conspirator liability they allege and moved that the conspiracy language be stricken from
15 Counts 54-58 and 61-68 among others.

16 a. Direct liability theory

17 While the State is allowed to charge Mr. Sena under whatever theory they want, there still
18 needs to be a showing of slight evidence to support any theory the State charges. In Counts 54-58
19 and 61-68, there is absolutely no evidence that Mr. Sena directly committed any of the crimes he is
20 charged with. The State's position is that Deborah Sena and T.S. engaged in the sexual acts with
21 each other and that Mr. Sena was nearby. In light of the complete lack of evidence supporting the
22 State's theory of direct liability, the defense respectfully requests the language charging Mr. Sena
23 with directly committing the offense in 54-58 and 61-68 be stricken from those counts.

24 b. Aiding and Abetting theory

25 Nevada Revised Statutes 195.020 states, in pertinent part. . .

26
27 Every person concerned in the commission of a felony, gross misdemeanor or
28 misdemeanor, whether the person directly commits the act constituting the offense, or aids or

1 abets in its commission, and whether present or absent; and every person who, directly or
2 indirectly, counsels, encourages, hires, commands, induces or otherwise procures another to
3 commit a felony, gross misdemeanor or misdemeanor is a principal, and shall be proceeded
4 against and punished as such.

5 Mere presence at the scene of the crime cannot support an inference that one is a party to an
6 offense. Walker v. State, 113 Nev. 853 (1997). See also Labastida v. State, 115 Nev. 298 (1999),
7 “Defendant’s mere presence in the home with her husband, without more, was insufficient to
8 establish that defendant aided and abetted the willful, deliberate and premeditated first-degree
9 murder of their child, where husband rather than defendant personally inflicted the child’s fatal
10 injuries.” Mr. Sena is being charged with multiple felonies, several of which carry a potential life
11 sentence, when the evidence clearly shows that he was not present in the room or merely present in
12 the residence or room when the alleged crimes occurred.

13
14 T.S. testified on August 28, 2015. He was 20 years old and his birthday is December 2,
15 1994. He is the biological son of Christopher Sena and Terrie Sena. Deborah Sena, the second wife
16 of Christopher Sena, is T.S.’s stepmother. He lived at 6012 Yellowstone along with his siblings and
17 half siblings.

18
19 T.S testified that when he was 14 or 15 there was an incident in the shower with his
20 stepmother Deborah Sena. He testified that after painting the house, he and Deborah got in the
21 shower and started cleaning each other. Deborah got in the shower first. She was naked and was
22 already in the shower when T.S. got into the shower. T.S. testified that Mr. Sena asked T.S. to get in
23 the shower as well. Once in the shower, Deborah gave T.S. a blowjob. T.S. testified that he didn’t
24 ask her to do that. He also testified that no one told Deborah to give him a blow job. It was
25 something she did of her own free will. After the blowjob, Deborah bent over at the waist and his
26 penis ‘went around her vagina area’. T.S testified that no one told Deborah to bend over. PHT Vol.
27 II, pp 110-114. Specifically regarding Mr. Sena, T.S. testified that he was walking in and out of the
28

1 bathroom occasionally. He also testified that it was Mr. Sena's idea to put his penis 'around her
2 vaginal area'. PHT Vol. II, pp 110-114.

3 In order to prove that Mr. Sena aided and abetted Deborah Sena in the commission of these
4 acts, there needs to be more than his presence in the room. Walker v. State, 113 Nev. 853 (1997).
5 The testimony of T.S. states that Deborah Sena was already naked in the shower when he got in.
6 While the suggestion to get in the shower may have come from Mr. Sena, the conduct of asking T.S.
7 to get into the shower with his naked stepmother is not criminal conduct per the State's charging
8 document.⁶ T.S. was also clear that the blow job by Deborah Sena was her idea and she did it on
9 her own. He further testified that no one asked her or told her to give him a blowjob. There is
10 absolutely no evidence presented that Mr. Sena counseled, encouraged, hired, commanded, induced
11 or otherwise procured Deborah to give T.S. fellatio in the shower. The defense requests count 54 be
12 dismissed.
13

14
15 Next, regarding the alleged action of T.S. penis 'going around Deborah's vagina' or touching
16 her vagina in some way, the totality of the testimony regarding Mr. Sena potential involvement in
17 that conduct is that it was 'his' idea.⁷ No further details were elicited by the State. Why did T.S.
18 think it was Mr. Sena's idea? If it indeed was his idea, how did Mr. Sena communicate that to T.S.?
19 T.S.'s declaration that it was Mr. Sena's idea is merely an assertion not supported by the other facts
20 provided by the State during the preliminary hearing. The video of this event was played during the
21 preliminary hearing and Mr. Sena's was not heard telling T.S. to touch his penis to Deborah's
22 vaginal area. Additionally, Mr. Sena was not seen coming into the frame of the video and directing
23 T.S. with gestures or movements to commit the alleged criminal act. T.S. testified that Mr. Sena
24
25

26 ⁶ The factual basis for Counts 55 and 56 are that Mr. Sena asked T.S. and Deborah Sena to wash each other once they
27 were in the shower.

28 ⁷ Counts 57 and 58 allege that in addition to the penis of T.S. going between the legs and/or genital area of Deborah, the
criminal conduct included Deborah Sena using her hand to touch/rub/fondle the penis of T.S. During his testimony
regarding the shower incident, T.S. never testified that Deborah touched/rubbed/fondled his penis. PHT Vol. 11, pp.110-
114. **Defense requests that language be stricken from counts 57 and 58.**

1 was going in and out of the room throughout the interaction between T.S. and Deborah Sena, so the
2 most likely scenario, given the evidence the State presented, is the Mr. Sena was not present in the
3 room and Deborah maneuvered her body to ensure T.S.'s penis made contact with her vagina. The
4 testimony of T.S. was that the act of fellatio was her idea, getting naked was her idea and bending
5 over while naked in the shower with T.S. was her idea. Without any evidence of Mr. Sena's
6 alleged involvement in the act of T.S. touching his penis to Deborah Sena's vagina, the defense
7 respectfully requests counts 57 and 58 be dismissed.
8

9 Finally, regarding the allegation that Mr. Sena aiding and abetting Deborah Sena in the
10 action of washing T.S. in the shower, it is a similar analysis as the allegation mentioned above.
11 Despite T.S.'s declaration that the washing was Mr. Sena's idea, the video does not support this
12 testimony. While Mr. Sena is visible during the shower, there is was no evidence presented by the
13 State that he verbally suggested that T.S. and Deborah wash each other and there is no
14 demonstration on the video of him directing T.S. and Deborah to wash each other. The State's
15 position is that since he told T.S. to get into the shower with Deborah; Mr. Sena is criminally
16 responsible for everything that followed afterward. That is simply not the law. Mere presence at the
17 scene of the crime is not enough to support an inference that Mr. Sena is a party to the offenses that
18 Deborah Sena committed. As such, there is insufficient evidence presented by the State to support
19 counts 55 and 56. The defense respectfully requests those two counts be dismissed.
20
21

22 The second alleged incident of sexual acts with Deborah Sena occurred in the master
23 bedroom. Counts 61-68 refer to that incident.⁸ T.S. testified that one day he was called into the
24 master bedroom by Mr. Sena. When T.S. arrived, he found Mr. Sena naked. T.S. recalled this
25 incident happened when he was 14 or 15. He removed his clothes when Mr. Sena told him to and
26 then, Deborah Sena walked into the room. She took her clothes off after entering the room.
27
28

⁸ Per the State's bindover argument, counts 62, 64, 66 and 68 are alternate counts to 61, 63, 64, and 67.

1 Neither Detective Ramirez nor T.S. testified that Mr. Sena directed or told Deborah to take off her
2 clothes, to touch her own breasts or to perform oral sex on Mr. Sena. During these minutes of the
3 videotape and once T.S entered the room, Deborah Sena didn't say anything. Per T.S.'s testimony,
4 Deborah's 'vaginal area went around [his] penis'. Deborah also performed oral sex on T.S. before
5 the sexual intercourse. When asked if there was another incident of oral sex after the sexual
6 intercourse, T.S. did not recall. PHT Vol. 2 pp. 115-120.

7
8 Despite T.S. not recalling any additional sexual acts between himself and Deborah Sena, the
9 State admitted the videotape of this incident during the preliminary hearing. Detective Vincente
10 Ramirez testified regarding the content of the video. Detective Ramirez described the beginning of
11 this alleged incident. Per the testimony of Detective Ramirez, the video tape showed Deborah Sena
12 fondling her own breasts after she removed her clothes and then performing oral sex on Mr. Sena.
13 The video then showed T.S. entering the frame with Mr. Sena after Mr. Sena left the frame. The
14 video then shows Deborah performing oral sex on T.S., followed by her laying on her back while he
15 inserted his penis into her vagina. Then, T.S. is then laying on his back while Deborah is on top of
16 him engaging in sexual intercourse. Per Detective Ramirez's testimony, the video shows Deborah
17 helping T.S. insert his penis into her vagina while he is lying on his back. Finally, Deborah is shown
18 giving T.S. oral sex once again. Mr. Sena is present in the room, and at times, on the bed having
19 sexual intercourse with Deborah while Deborah is engaging the various sexual acts with T.S. PHT
20 Vol. 1, pp. 223-225. Detective Ramirez was unable to testify to the actual words being spoken by
21 anyone in the video. The video ended after T.S. left the room. Mr. Sena was straightening up the
22 bedroom and Deborah was with him. PHT Vol. 1, pp. 225.

23
24
25 While Mr. Sena was present during these sexual acts and may have engaged in separate
26 sexual acts with Deborah during the interaction, the State failed to produce any evidence that he was
27
28

1 counseling, encouraging, hiring, commanding, inducing or otherwise procuring the behavior of
2 Deborah Sena with T.S. She was acting of her own free will.

3 In Rodriguez v. State, the Nevada Supreme Court reversed convictions for sexual assault and
4 kidnapping on a theory of aiding and abetting. Mr. Rodriguez was convicted for a separate count of
5 sexual assault for his own direct actions in sexually assaulting the victim. His convictions for aiding
6 and abetting in the kidnapping and additional sexual assault were overturned even though he was
7 present when the subsequent sexual assault occurred and did nothing to prevent it from happening.
8 (Rodriguez v. State, 107 Nev. 432 (1991)). The facts of the Rodriguez case are similar to those
9 presented by the State here. While, emotionally, it may seem that Mr. Sena should have done
10 something to prevent Deborah Sena's actions with T.S., he is not criminally responsible for her
11 actions under an aiding or abetting theory. This is no different than if someone is in a room when a
12 husband hits his wife across the face and breaks her nose. The person standing next to the husband
13 while he hits his wife is not criminally responsible for the actions of the husband. The State wants
14 the Court to apply an incorrect interpretation of NRS 195.020, the aiding and abetting law, simply
15 because the crimes are sexual crimes involving minors. That is not how the criminal justice system
16 works in the State of Nevada. Mr. Sena was merely present when Deborah Sena committed these
17 crimes against T.S. As such, the State failed to produce sufficient evidence to support counts 61-68,
18 and the defense respectfully requests those counts be dismissed.
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24 VIII. Regarding Counts 95-98 and 101-102, the State failed to produce sufficient evidence
25 that Mr. Sena aided and abetted Terrie Sena in the commission of the crimes of
26 Sexual Assault Minor under 16 and Incest against R.S.

27 Regarding Counts 95-98 and 101-102, the State failed to produce sufficient evidence
28 that Mr. Sena directing committed the crimes of Sexual Assault Minor under 16, or
Incest against R.S.

1 Mr. Sena is alleged to have committed the crimes of Sexual Assault Minor under 16 and
2 Incest against R.S. He is alleged to have either committed the alleged crimes himself (not what the
3 State elicited as testimony), or worked with Terrie Sena either to conspire to commit the act or
4 aiding and abetting her in the commission of those crimes. As argued earlier, there was no evidence
5 presented of a conspiracy between Terrie Sena and Mr. Sena. The testimony the State presented at
6 the preliminary hearing did not allege that Mr. Sena directly committed the sexual acts against R.S.
7 himself. The testimony was that Terrie Sena had sexual intercourse with R.S. The testimony was
8 that Terrie Sena performed oral sex on R.S. Due to that testimony, the defense requests the Court
9 strike the language alleging Mr. Sena's direct responsibility for the crimes in Count 95-98 and 101-
10 102.

11
12
13 a. aiding and abetting allegation.

14 There are 2 separate incidents R.S. testified to regarding sexual interactions with Terrie Sena.
15 R.S. testified that Terrie Sena is his biological mother. Mr. Sena is not the biological father of R.S.
16 PHT Vol. 2 pp. 15.

17 R.S. recalled 2 separate incidents with his mother Terrie Sena. One incident happened in the office
18 and the other in 'his' room. The first incident R.S. testified about was the incident in Mr. Sena's
19 room, apparently 'his' room. R.S. did not remember his age or what grade he was attending in
20 school. He did remember he was under the age of 16, though. R.S. went into the room because his
21 mother was in there. Once in there, she began taking off his clothes. Mr. Sena was not in the room
22 when R.S.'s clothes were removed. R.S. got on the bed and then, Terrie Sena removed her clothes.
23 After removing her clothes, she started performing oral sex on R.S. R.S. alleges that then Mr. Sena
24 'made' Terrie Sena get on her back on the bed, and then makes R.S. get on top of her. Terrie Sena
25
26
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28

1 had sexual intercourse with R.S. According to R.S., Mr. Sena makes him get off Terrie Sena. He
2 then lies on the bed and she performs oral sex again on R.S. PHT Vol. 2, pp 41-46.

3 Detective Ramirez testified about video images of this event. He described seeing R.S. and
4 Terrie Sena in the room. Terrie Sena is helping R.S. remove his clothes. She then has him lay on
5 his back on the bed per Detective Ramirez. Then, Terrie removes her own clothes. After removing
6 both R.S.'s clothes and her own clothes, she begins performing oral sex on R.S. While that is
7 happening, Terrie is putting R.S.'s hand on her breast so that he can fondle her breast. During this
8 conduct, Mr. Sena is not in the video frame. After masturbating R.S., Terrie Sena performs oral sex
9 again. Afterwards, she lies on her back, and R.S. then moves towards her as she motions for him to
10 come closer. Terrie then begins having sexual intercourse with R.S. While she is having sexual
11 intercourse with R.S., Terrie Sena is massaging his buttocks. Once again, Mr. Sena is not in the
12 video frame. After Terrie and Ryan switch positions so that Ryan is lying on his back, Mr. Sena
13 enters the frame. Ryan remains on the bed on his back. Terrie Sena then begins to have sexual
14 intercourse on her hands and knees with Mr. Sena. While that is happening, Terrie Sena is
15 performing oral sex on R.S. Detective Ramirez did testify that people are speaking on the video,
16 but he could not testify as to specifically who or what is being said PHT Vol. II, pp. 10-14.

17 While Mr. Sena was present during some parts of the sexual interaction, R.S.'s testimony
18 makes it clear that Terrie Sena was acting on her own. The acts of sexual intercourse and fellatio on
19 R.S. were performed by Terrie Sena, not by Mr. Sena. Simply because he was present in the room
20 does not make him responsible for the actions of Terrie Sena. She took off her clothes and R.S.'s
21 clothes. She had him lie down on the bed and began performing oral sex on him. While that was
22 happening, she was taking his hand and putting it on her breast. Terrie Sena was touching R.S.'s
23 buttocks while engaging in sexual intercourse with him. Terrie Sena was committing these acts.

1 The only testimony that Mr. Sena was responsible for the actions of Terrie Sena came from
2 the matter of fact declaration of R.S. that Mr. Sena 'made' her do those things. R.S. is Terrie's son.
3 He testified that he was upset to hear that she had accepted a negotiation. He testified that he is
4 hoping to do something to help Terrie out and to lessen her prison sentence. He testified that he
5 didn't want to see his mom in jail any longer. PHT Vol. IV, pp 72. While R.S.'s testimony is
6 competent testimony, the Court still must take into account that he may be influenced by outside
7 factors when his testimony that Mr. Sena "made" his mother do those things, simply isn't supported
8 by the testimony of Detective Ramirez. Credibility of witness is one of the matters to be considered
9 during preliminary hearing. Marcum v. Sheriff, 85 Nev. 175 (1969).
10

11 The second alleged incident between Terrie Sena and R.S. occurred in the office. R.S.
12 testified that he came into the room for help with an ingrown toenail. Mr. Sena was the person R.S.
13 was seeking the help from in the office. After arriving in the office and talking with Mr. Sena for a
14 while, Terrie Sena also came into the office. Once in the office, Terrie Sena took off R.S.'s clothes.
15 She also took off her own shirt. She then performed fellatio on R.S. After a while, Terrie Sena
16 started performing oral sex on Mr. Sena at the same time, alternating between R.S. and Mr. Sena.
17 PHT Vol. IV, pp 49-50. The State charged Mr. Sena with aiding and abetting Terrie Sena in
18 performing fellatio on R.S. No testimony was presented that Mr. Sena aided or encouraged Terrie
19 Sena to commit these acts of Sexual Assault. R.S. sought out Mr. Sena for a completely innocent
20 reason. They were in the office for a while talking before Terrie Sena came in. It was only after
21 Terrie Sena entered the office and entered the interaction between R.S. and Mr. Sena that anything
22 sexual happened. She initiated the sexual conduct by taking off R.S.'s clothes. There is no doubt
23 that Mr. Sena was in the room while the alleged crime was being committed, but without something
24 more, the State failed to produce sufficient evidence Mr. Sena aiding or abetted Terrie Sena. All the
25 State proved regarding Counts 101 and 102 is that Mr. Sena was merely present when those crimes
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28

1 were committed. Per the arguments above, the defense respectfully requests counts 95- 98 and 101-
2 102 be dismissed.

3
4
5 IX. Regarding Count 97, the State failed to prove the necessary biological relationship to
6 sustain the charge of Incest.

7 Should the Court decide that Mr. Sena was not merely present when Terrie Sena was
8 engaging in act of sexual intercourse charged in Count 97; the defense further argues that R.S. and
9 Mr. Sena are not biologically related, and therefore, the charge of Incest must be dismissed. R.S. is
10 the biological son of Terrie Sena. Nevada Revised Statutes 201.180 states:

11
12 Persons being within the degree of consanguinity within which marriages are
13 declared by law to be incestuous and void who intermarry with each other or who
14 commit fornication or adultery with each other shall be punished for a Category A
15 felony by imprisonment in the State prison for a minimum of not less than 2 years
and a maximum term of life with the possibility of parole, and may be further
punished by a fine of not more than \$10,000.

16 The crime of incest is defined clearly in this statute. The crime is committed when 2 people
17 have sexual intercourse and those 2 people are within the degree of consanguinity that would make a
18 marriage between them void or incestuous. That biological relationship exists between Terrie Sena
19 and R.S. It does not exist between Mr. Sena and R.S. Additionally, the crime is committed when
20 the 2 people who are biologically related engage in sexual intercourse. Terrie Sena engaged in
21 sexual intercourse with her biological son, R.S., not Mr. Sena. In discussing the difference between
22 the crimes of sexual assault and incest, the Nevada Supreme Court stated "incest requires a familial
23 relationship, while sexual assault does not". The Court held that incest condemns sex between close
24 relatives without regard to consent. Douglas v. State, 130 Nev. Adv. Op. 31, 327 P.3d 492 (2014).
25 The biological relationship or degree of consanguinity is between Terrie Sena and R.S. The State is
26 overreaching by charging Mr. Sena under a theory of aiding and abetting for the crime of incest.
27
28

1 The interpretation of a statute should be in line with what reason and public policy would indicate
2 the legislature intended, and should avoid absurd results. Speer v. State, 116 Nev. 677, 5 P.3d 1063
3 (2000). To allow the State to charge Mr. Sena with the crime of incest when his is not biologically
4 related to R.S. would be an absurd result. Due to the lack of a biological relationship between Mr.
5 Sena and R.S. which is a required element for the crime of Incest, the defense respectfully requests
6 Count 97 be dismissed.
7

8 X. Regarding Counts 48-51, the State failed to produce sufficient evidence that Mr. Sena
9 aided and abetted Deborah Sena in the commission of the crimes of Sexual Assault
10 Minor and Open or Gross Lewdness against A.S.

11 Regarding Count 48, Mr. Sena is charged with Sexual Assault against A.S. Specifically,
12 Count 48 lists A.S. as the victim of sexual penetration, by the act of digital penetration, by said
13 **Defendant causing the finger of A.S. to be placed into the genital opening of Deborah Sena.**

14 To be clear, Mr. Sena being charged with committing the crime of sexual assault, i.e., sexual
15 penetration, against A.S. when A.S. is the person who digitally penetrated Deborah Sena's genital
16 opening. He is being charged under the alternate theories of direct liability, conspiracy theory or
17 aiding/abetting theory.
18

19 NRS 300.366 states,

20 A person is guilty of sexual assault if he or she:

21 (a) Subjects another person to sexual penetration, or forces another person to make a
22 sexual penetration on himself or herself or another, or on a beast, against the will
23 of the victim or under conditions in which the perpetrator knows or should know
that the victim is mentally or physically incapable of resisting or understanding
the nature of his or her conduct; or

24 (b) ...

25 As used in NRS 200.364 to 200.3784, inclusive, unless the context otherwise requires:

26 1. ...

27 2. ...

28 3. ...

4. "Sexual offense" means any of the following offenses:

(a) Sexual assault pursuant to NRS 200.366.

(b) Statutory sexual seduction pursuant to NRS 200.368.

5. "Sexual penetration" means cunnilingus, fellatio, or any intrusion, however slight, of any part of a person's body or any object manipulated or inserted by a person into the genital or anal openings of the body of another, including sexual intercourse in its ordinary meaning. The term does not include any such conduct for medical purposes.

6. . . .

7. "Victim" means a person who is a victim of a sexual offense, an offense involving a pupil or sex trafficking.

Count 48 is alleging that Mr. Sena is guilty of Sexual Assault against the victim A.S.. The act of sexual penetration that Mr. Sena is charged with is causing the victim of the sexual assault, A.S., to digitally penetrate Deborah Sena's genital opening with A.S.'s finger. To take this even further into the creative world of this charge, Mr. Sena is charged under either direct liability, conspirator liability (it's completely unclear who Mr. Sena is supposed to have conspired with on this count) or an aiding and abetting theory. NRS 200.366 is straightforward. A criminal defendant can be charged with Sexual Assault if there is evidence a victim experienced a sexual penetration. From the way the State has pled this Count, the person who is committing the act of sexual penetration, A.S., is the victim and the person who is being sexually penetrated is not the victim. This is a very long way to go to charge Mr. Sena with a crime for activities that 2 adults participated in simply because he was in the room. The State is overreaching in their interpretation of NRS 200.366. The defense respectfully requests Count 48 be dismissed due to the lack of evidence that A.S. was the victim of a sexual assault.

Regarding the remaining 3 counts of Open or Gross Lewdness that the State has charged from this same incident and the Sexual Assault (Count 48), the State is proceeding under either the conspiracy theory or the aiding and abetting theory as far as the defense can tell. The lack of evidence to support the conspiracy theory was addressed under Section I. The evidence presented at the preliminary hearing was that 2 adult women engaged in sexual acts while Mr. Sena was present. Per the testimony of A.S., she did not want to participate in these actions, but did so because he told

1 them what to do. She was either 17 or 18 years old at the time of this incident. A.S. also testified
2 that despite Mr. Sena telling Deborah and A.S to do the same things to each other, A.S. actually
3 digitally penetrated Deborah, while Deborah chose not to digitally penetrate A.S. In other words,
4 both women were acting 'willfully' on their own and doing what they independently wanted to do.
5 There is no evidence presented of Mr. Sena aiding or abetting these 2 women to commit the sexual
6 acts on each other. The defense respectfully requests the Court dismiss Counts 48-51 due to the lack
7 of evidence presented to support the aiding and abetting theory.
8

9 CONCLUSION

10
11 The defense respectfully requests counts 1, 8-20, 23-45, 48-51, 54-58, 61-68, 70, 81, 84, 91-
12 92, 95-98, 101-102, 105, 107-114 and 117 be dismissed.
13

14 DATED this 18th day of March, 2016.

15 PHILIP J. KOHN
16 CLARK COUNTY PUBLIC DEFENDER
17

18
19 By: /s/ Violet R. Radosta
VIOLET R. RADOSTA, #5747
20 Deputy Public Defender
21

22 By: /s/ David Lopez-Negrete
DAVID LOPEZ-NEGRETE, #12027
23 Deputy Public Defender
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NOTICE

TO: CLARK COUNTY DISTRICT ATTORNEY, Attorney for Plaintiff:

YOU WILL PLEASE TAKE NOTICE that the foregoing PETITION FOR WRIT OF
HABEAS CORPUS will be heard on 4 day of April, 2016, at 8:30 a.m. in
Department No. XIX District Court.

DATED this 18th day of March, 2016.

PHILIP J. KOHN
CLARK COUNTY PUBLIC DEFENDER

By: /s/ Violet R. Radosta
VIOLET R. RADOSTA, #5747
Deputy Public Defender

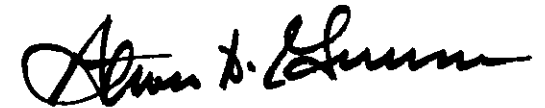
CERTIFICATE OF ELECTRONIC FILING

I hereby certify that service of the above and foregoing was made this 18th day of
March, 2016, by Electronic Filing to:

District Attorneys Office
E-Mail Address:

PDMotions@clarkcountyda.com

/s/ Carrie M. Connolly
Secretary for the
Public Defender's Office



CLERK OF THE COURT

1 ORDR
2 PHILIP J. KOHN, PUBLIC DEFENDER
3 NEVADA BAR NO. 0556
4 309 South Third Street, Suite #226
5 Las Vegas, Nevada 89155
6 (702) 455-4685
7 Attorney for Defendant

5 DISTRICT COURT
6 CLARK COUNTY, NEVADA

7 THE STATE OF NEVADA,

8 Plaintiff,

9 v.

10 CHRISTOPHER SENA,

11 Defendant.

CASE NO. C-15-311453-1

DEPT. NO. XIX

12 ORDER


13
14 The Petition of CHRISTOPHER SENA submitted by VIOLET R. RADOSTA,
15 Deputy Public Defender, as attorney for the above-captioned individual, having been filed in the
16 above-entitled matter,

17 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that you, STEVE
18 GRIERSON, Clerk of the Eighth Judicial District Court of the State of Nevada, in and for the
19 County of Clark, issue a Writ of Habeas Corpus.

20 DATED AND DONE at Las Vegas, Nevada, this 29th of March, 2016.

21 
22 DISTRICT COURT JUDGE

23 Submitted By:
24 PHILIP J. KOHN
25 CLARK COUNTY PUBLIC DEFENDER

26 By 
27 VIOLET R. RADOSTA, #5747
28 Deputy Public Defender

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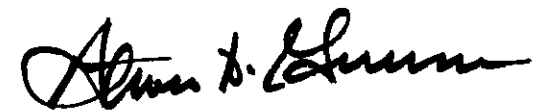
CERTIFICATE OF ELECTRONIC FILING

I hereby certify that service of the above and foregoing was made this 31st day of
March, 2016 by Electronic Filing to:

District Attorneys Office
E-Mail Address:
Jaclyn.Motl@clarkcountyda.com

/s/ Anita H Harrold
Secretary for the Public Defender's Office

Case Name: CHRISTOPHER SENA
Case No.: 14F14785X
Dept. No.: XIX



CLERK OF THE COURT

RWHC
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
JAMES R. SWEETIN
Chief Deputy District Attorney
Nevada Bar #005144
MARY KAY HOLTHUS
Nevada Bar #003814
Chief Deputy District Attorney
200 Lewis Avenue
Las Vegas, Nevada 89155-2211
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

In the Matter of Application,
of
CHRISTOPHER SENA,
#0779849
for a Writ of Habeas Corpus.

Case No. **C-15-311453-1**

Dept No. **XIX**

RETURN TO WRIT OF HABEAS CORPUS

DATE OF HEARING: MAY 16, 2016
TIME OF HEARING: 8:30 A.M.

COMES NOW, JOSEPH LOMBARDO, Sheriff of Clark County, Nevada,
Respondent, through his counsel, STEVEN B. WOLFSON, District Attorney, through
JAMES R. SWEETIN, Chief Deputy District Attorney, and MARY KAY HOLTHUS, Chief
Deputy District Attorney, in obedience to a Writ of Habeas Corpus issued out of and under
the seal of the above-entitled Court on the 18th day of March, 2016, and made returnable on
the 16th day of May, 2016, at the hour of 8:30 o'clock A.M., before the above-entitled Court,
and states as follows:

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1 1. Respondent admits the allegations of Paragraph 1, of the Petition for Writ of
2 Habeas Corpus.

3 2. Respondent denies the allegations of Paragraph 3 of the Petitioner's Petition for
4 Writ of Habeas Corpus.

5 3. Paragraphs 2, 4, 5, and 6, do not require admission or denial.

6 4. The Petitioner is in the actual custody of JOSEPH LOMBARDO, Clark County
7 Sheriff, Respondent herein, pursuant to a Criminal Information, a copy of which is attached
8 hereto as Exhibit 1 and incorporated by reference herein.

9 Wherefore, Respondent prays that the Writ of Habeas Corpus be discharged and the
10 Petition be dismissed.

11 DATED this 10th day of May, 2016.

12 Respectfully submitted,

13 STEVEN B. WOLFSON
14 Clark County District Attorney
 Nevada Bar # 001565

15
16 BY /s/ JAMES R. SWEETIN
17 JAMES R. SWEETIN
 Chief Deputy District Attorney
18 Nevada Bar #005144

19
20 BY /s/ MARY KAY HOLTHUS
21 MARY KAY HOLTHUS
 Chief Deputy District Attorney
22 Nevada Bar #003814
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1 **POINTS AND AUTHORITIES**

2 **STATEMENT OF FACTS PERTINENT TO THIS RETURN**

3 Defendant, CHRISTOPHER SENA, is charged by way of Criminal Information with
4 the crimes of CONSPIRACY TO COMMIT SEXUAL ASSAULT (Category B Felony - NRS
5 200.364, 200.366, 199.480), SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN
6 YEARS OF AGE (Category A Felony - NRS 200.364, 200.366), LEWDNESS WITH A
7 CHILD UNDER THE AGE OF 14 (Category A Felony - NRS 201.230), SEXUAL ASSAULT
8 WITH A MINOR UNDER SIXTEEN YEARS OF AGE (Category A Felony - NRS 200.364,
9 200.), INCEST (Category A Felony - NRS 201.180), OPEN OR GROSS LEWDNESS
10 (Category D Felony - NRS 201.210), SEXUAL ASSAULT (Category A Felony - NRS
11 200.364, 200.366), PREVENTING OR DISSUADING WITNESS OR VICTIM FROM
12 REPORTING CRIME OR COMMENCING PROSECUTION (Category D Felony - NRS
13 199.305), CHILD ABUSE AND NEGLECT, SEXUAL ABUSE OR EXPLOITATION
14 (Category A Felony - NRS 200.508(1)), POSSESSION OF VISUAL PRESENTATION
15 DEPICTING SEXUAL CONDUCT OF A CHILD (Category B Felony - NRS 200.700,
16 200.730), USE OF MINOR IN PRODUCING PORNOGRAPHY (Category A Felony - NRS
17 200.700, 200.710.1, 200.750) and USE OF MINOR UNDER THE AGE OF 14 IN
18 PRODUCING PORNOGRAPHY (Category A Felony - NRS 200.700, 200.710.1, 200.750).

19 The Co-Defendant's in this case are DEBORAH SENA and TERRIE SENA. The
20 crimes occurred on or between May 22, 2001 and June 30, 2014. The victims are A.S., T.S.,
21 B.S., R.S., E.C., I.G., T.G., and M.C.

22 A preliminary hearing commenced in this matter on August 27, 2015 and was
23 concluded after four separate days of testimony on September 18, 2015.

24 **The Preliminary Hearing Testimony of Terrie Sena Relevant to this Return**

25 On August 27, 2015, Terri Sena testified that she was familiar with Defendant because
26 he is her ex-husband and they were married from September 1990 to August 1997. Terrie
27 Sena testified that she was familiar with the residence located at 6012 Yellowstone Avenue,
28 Las Vegas, Clark County, Nevada, in that she lived there for fifteen (15) years, from 1998

1 through 2013; and, from January 2014 until June 2014. PHT, Vol. I, pp. 13-14. Terrie Sena
2 testified that over the period of time that she lived at the residence, she lived there with
3 Defendant and his wife, Deborah Sena, Terrie's biological daughter with Defendant, A.S.,
4 Terrie's biological son with Defendant, T.S., Terrie's step-son, B.S., who is the biological son
5 of Defendant and Deborah Sena; and, R.S., Terrie Sena's biological son with another man.
6 PHT, Vol. I, pp. 14-16. While living at the residence, Terrie's younger sister, M.C., and her
7 niece, M.C.'s daughter, E.C., occasionally visited her at the Yellowstone address. Terrie Sena
8 testified that her other sister, K.G., also had occasion to visit the residence. PHT, Vol I., pp.
9 17-18.

10 Terrie Sena testified that she had been charged with things that happened at the
11 Yellowstone address. Terrie Sena testified that those charges were resolved when she agreed
12 to plead guilty to one count of sexual assault; and, agreed to a sentence of ten years to life in
13 prison, as well as to testify truthfully in the court proceeding. PHT, Vol. I, pp. 18-20. Terrie
14 Sena testified that she was, in fact, sentenced to 10 years to life in prison. PHT, Vol. I, p. 21.

15 Terrie Sena testified that while she was living at the Yellowstone residence, she became
16 aware that sexual acts were being committed. Terrie Sena testified that when her sister, M.C.,
17 would visit from time to time, when M.C. was 15 and 16 years of age. During that time, naked
18 pictures of M.C. were taken by Defendant. PHT, Vol. I, p. 22. Terrie observed State's
19 proposed Exhibits 13-22 and recognized them as photos of her and M.C., naked together, with
20 most of them being photos of M.C. PHT, Vol I, pp. 23-24. Terrie testified that some of the
21 photos were taken in the office of her house, while others were taken in M.C.'s bedroom, at
22 her parent's house, located at 2012 Tonopah, North Las Vegas, Clark County, Nevada. PHT,
23 Vol. I, p. 24. Terrie Sena testified that Defendant took the photographs of her and M.C. PHT,
24 Vol. I, p. 27.

25 Terrie testified that her niece, T.G., also came to the residence to visit, when T.G. was
26 sixteen years of age. Terrie testified that T.G. had come over to have her hair dyed. Terrie
27 Sena further testified that she dyed T.G.'s hair. After washing T.G.'s hair, T.G. went to take
28 a shower and Defendant filmed T.G. taking a shower. Defendant would get on a step stool and

1 hold the camcorder into the bathroom where the shower was. Terrie Sena testified that while
2 Defendant was recording T.G. in the shower, T.G. would have not been able to see him.
3 **(COUNTS 118 AND 119)** PHT, Vol. I, pp. 28-29. Terrie Sena testified that she was giving
4 Defendant oral sex while Defendant was filming T.G. in the shower. Terrie Sena viewed
5 State's proposed Exhibits "5", "8", and "9", and indicated that they were still photos of the
6 video that Defendant made of T.G. in the shower. PHT, Vol. I, p. 30.

7 Terrie Sena testified that her niece, E.C., also came to the residence to visit. Terrie
8 testified that when E.C. visited she had gotten lice at school. All of the kids' hair had to be
9 washed as a result and Terrie Sena took E.C. to the bathroom in the office area to wash her
10 hair. E.C. took a shower and while that occurred, Defendant got the camcorder and recorded
11 E.C. taking a shower, while standing on stool with the camera focused down. **(COUNTS 115**
12 **AND 116)**. Terrie Sena viewed State's proposed Exhibit "6" and identified it as a picture from
13 the video that Defendant took of E.C. taking a shower. PHT, Vol. I, pp. 30-32

14 Terrie Sena testified that she also observed filming of R.S. Defendant told Terrie Sena
15 to go and get R.S. from the front of the house and bring him to the office. When Terrie Sena
16 got back to the office with R.S., she noticed the red light blinking on the computer. Defendant
17 had her unbuckle R.S.'s pants and take them off, before Terrie Sena gave R.S. oral sex. While
18 Terrie Sena was performing oral sex on R.S., Defendant was sitting at his computer
19 masturbating. Defendant then approached Terrie Sena and had her perform oral sex on him.
20 After Terrie Sena performed oral sex on Defendant, he instructed her to remove the rest of
21 R.S.'s clothes and had R.S. remove Terrie Sena's top off, at which time he instructed R.S. to
22 put his penis in Terrie Sena's vaginal opening. PHT, Vol. I, pp. 33-35.

23 Terrie Sena testified that she had sexual contact two other times in the presence of
24 Defendant. One in the master bedroom and a second incident in the office. During the incident
25 in the master bedroom of the residence Defendant had Terrie Sena lay on the bed with R.S.,
26 undress R.S. and then undress herself. Terrie Sena got on top of R.S. so that his penis
27 penetrated her vaginal opening. Defendant got behind Terrie Sena and engaged in having anal
28 sex with her. PHT, Vol. I, pp. 35-36. Terrie Sena viewed State's proposed Exhibit "7" and

1 indicated that it was a picture of the master bedroom with R.S. laying on the bed while Terrie
2 Sena is getting undressed beside him. At the time the three incidents occurred, R.S. was 14
3 years of age. PHT, Vol. I, p. 38. Terrie Sena testified that the first incident that occurred in the
4 office happened sometime during the fall of 2012. The incident in the bedroom occurred when
5 R.S. was a freshman in high school and 14 years of age. PHT, Vol. I, p. 41-42. Terrie Sena
6 testified that R.S. was born on June 14, 1988 and that he was 14 years of age in 2012. Terrie
7 Sena stated that the incident in the office and the one in the bedroom occurred over a three
8 week period of time, from what she recollected. PHT. Vol. I, pp. 42-43.

9 The third incident occurred in the office. Defendant had Terrie Sena bring R.S. into the
10 office, un-belt R.S.'s pants, and place his penis in her mouth. R.S. then placed his penis in
11 Terrie Sena's vagina, while she was laying flat on her back. The red light was on the computer
12 when the incident occurred which indicated that Defendant was filming it. The last incident
13 occurred in 2014, just before Terrie Sena left the residence. PHT, Vol. I, pp. 44-45.

14 Besides the sexual contact she had with R.S., Terrie Sena also had sexual contact with
15 B.S. Terrie Sena described an incident where she brought B.S. into the office, from the house,
16 and performed oral sex on him. Terrie Sena removed B.S.'s clothes, as well as her own, at
17 which time Defendant told B.S. to touch Terrie Sena's breast and to insert his penis into her
18 vagina as she lay flat on her back. That incident occurred in December 2012. A second
19 incident occurred a month later, in January 2013. During that incident, Defendant had B.S.
20 touch Terrie's breasts with his hands. Terrie put B.S.'s penis in her mouth, and B.S. inserted
21 his penis into Terrie's vagina, while she lay flat on her back, which was recorded by the
22 Defendant. **(COUNTS 79 – 85)** PHT, Vol. I, pp. 45-48.

23 Terrie Sena described an incident that occurred with A.S., in the living room of the
24 house. Terrie Sena was in the living room with Defendant and A.S. Defendant had A.S. lean
25 over the ottoman and Defendant penetrated A.S.'s anus with his penis **(COUNT 52)**, while
26 A.S. was touching Terrie Sena's breasts. PHT, Vol. I, pp. 48-49. A.S. was 17 years of age and
27 a senior in High School when the incident occurred. PHT, Vol. I, p. 52.

28 //

1 Terrie Sena testified that the first time something sexual happened in the household
2 with R.S. he was five years of age. During that incident, Defendant had Terrie Sena and
3 Deborah Sena bring R.S. and B.S. into the master bedroom. Defendant had Terrie Sena
4 undress B.S. and had Deborah Sena undress R.S., at which time Terrie Sena performed fellatio
5 on B.S. and Deborah Sena performed fellatio on R.S. Defendant was standing on the side of
6 the bed when the incident occurred. Terrie Sena was not aware of whether that incident was
7 recorded or not. PHT, Vol. I, pp. 52-53.

8 **The Preliminary Hearing Testimony of M.C. Relevant to this Return**

9 On August 27, 2015, M.C. testified that she has four sisters and one brother. M.C.
10 testified that her brother's name is Jerry Clark and that he is older than her. M.C. testified that
11 she was 34 years of age and her birthday is May 16, 1981. M.C. testified that she has three
12 sisters, but she is the baby of the family. M.C. testified that the next oldest sister is Terrie
13 Sena whose date of birth is October 26, 1970; then, Kimberly Gresham, whose date of birth is
14 April 29, 1964; then Mary Jo, age 51; and, Cheryl. PHT, Vol. I, pp. 136-137.

15 M.C. testified that she has one child, E.C., age 14, date of birth December 21, 2000.
16 M.C. testified that Terrie Sena has three children, A.S., T.S., and R.S. M.C. testified that
17 Kimberly Gresham has two children, Roy and T.G., age 18. PHT, Vol. I, pp. 138-139. M.C.
18 testified that Defendant was married to her sister, Terrie Sena. M.C. testified that she was
19 eight years of age when she first met Defendant and that her sister, Terrie, as eighteen. M.C.
20 testified that she spent time with Defendant and Terrie. PHT, Vol. I, p. 140.

21 M.C. was shown pictures of State's proposed Exhibits 13 through 22 and she identified
22 herself in those pictures. Each of the exhibits were photos of M.C. in the nude and/or in
23 sexually oriented positions. In State's proposed Exhibit "13", M.C. testified that she was 16.
24 M.C. testified that she believed Defendant took that picture as he was the only person in the
25 room with her. PHT, Vol. I, p. 142. M.C. testified that State's proposed Exhibit "14" was
26 taken when she was younger than 16. M.C. testified that she could not remember who took
27 the picture. M.C. testified that she was naked in the picture and that Defendant was the only
28 person who ever took pictures of her naked. **(Count 120)** PHT, Vol. I, pp. 141-144. State's

1 proposed Exhibit “15” was taken the same day as State’s proposed Exhibit “14”. M.C. was
2 15 years of age and the picture was also taken by Defendant. **(Count 121)** State’s proposed
3 Exhibit “16” was also taken that same day and showed a dildo being put into M.C.’s mouth,
4 which was given to her by Defendant. **(Count 122)** PHT, Vol. I, pp. 144-145.

5 State’s proposed Exhibit “17” was taken when M.C. was 16 years of age. Defendant is
6 in the picture which shows M.C. putting his penis in her mouth, while Terrie Sena took the
7 picture. PHT, Vol. I, p. 145. M.C. testified that State’s Exhibit “17” was taken when she was
8 16 years of age. Terrie Sena is in the picture and appears to be pregnant. M.C. testified that
9 Terrie Sena was pregnant with R.S., who was born on June 14, 1999. M.C. testified the picture
10 was taken before June 1999, by Defendant. PHT, Vol. I, p. 146.

11 M.C. testified that State’s proposed Exhibit “19” showed her at the trailer on
12 Yellowstone, when she was approximately 16 years of age. State’s proposed Exhibit “20”
13 showed M.C. with her sister, Terrie Sena, when M.C. was 16 years of age. M.C. testified that
14 Defendant took the picture and directed what they were doing in the picture. PHT, Vol. I, p.
15 147. In State’s proposed Exhibit “21” M.C. was 15 year old and a sophomore. The picture was
16 taken at her old residence by Defendant. **(Count 123)** In State’s proposed Exhibit “22” M.C.
17 was 15 years of age, holding a dildo up to her anal area, which she was directed to do by
18 Defendant. **(Count 124)** PHT, Vol. I, pp. 148-149. M.C. testified that it was Defendant’s idea
19 to take the pictures and it was not something she wanted to do. PHT, Vol. I, p. 150.

20 On re-direct, M.C. clarified that in State’s proposed Exhibit’s 14, 15, 16, 21, and 22,
21 were taken when she was 15 years of age. PHT, Vol. I, p. 188.

22 **The Preliminary Hearing Testimony of Det. William Karau Relevant to this Return**

23 Detective Karau testified that he was employed with the Las Vegas Metropolitan Police
24 Department and had been for 15 years in January. Detective Karau testified that he was
25 assigned to the Juvenile Sexual Abuse section for five years and a few months. On September
26 18, 2014, Detective Karau had occasion to assist in a search warrant at the residence of 6012
27 Yellowstone, Las Vegas, Clark County, Nevada. Detective Karau’s role was to assist in
28 keeping an eye on the residence to see if anyone was coming or going from it. At the time

1 SWAT served the search warrant T.S. and Defendant were present at the residence. PHT, Vol.
2 I, pp. 191-192. During the execution of the search warrant they were looking for electronic
3 storage devices and computers, among other things. PHT, Vol. I, p. 193. Those items were
4 located in an office in the back of the property that had a bathroom and a kitchenette in it. The
5 items retrieved were sealed and booked into evidence and taken to the evidence vault. Among
6 the items seized and booked into evidence was No. 25, a Data Travel G3 Thumb drive. PHT,
7 Vol. I, pp. 193-194.

8 **The Preliminary Hearing Testimony of Det. Vince Ramirez Pertinent to this Return**

9 Vince Ramirez testified that he was employed by the Las Vegas Metropolitan Police
10 Department and had been so employed for 20 years. Detective Ramirez testified that he was
11 currently assigned to Internet Crimes against Children Division and had been since 2000. PHT,
12 Vol. I, pp. 211-212. Detective Ramirez testified that he had occasion to perform a forensic
13 review of certain items seized under LVMPD Event #1409151583. The item was previously
14 seized pursuant to a search warrant executed on Defendant's residence on or about September
15 18, 2014. PHT, Vol.1, pp. 191-195. Specifically, Detective Ramirez received a Data Traveler
16 G3 thumb drive booked as package 6, item No. 25. Detective Ramirez requested an
17 authorization to have that equipment released to take to the lab for a forensic examination.
18 Detective Ramirez testified that he obtained a warrant in order to perform the forensic
19 examination. PHT, Vol. I, p. 212.

20 Detective Ramirez testified that when an item is received for forensic examination a
21 digital copy is made and that copy is used for testing, so as not to touch any of the original
22 evidence. PHT, Vol. I, p. 214. In the course of the analysis, Detective Ramirez obtained 8
23 videos from the electronic storage disk. Those videos were deemed relevant in this case based
24 upon the individuals in the videos. Detective Ramirez testified that the main subject matters
25 in the videos was Defendant, Terrie Sena, Deborah Sena, T.S., B.S. and R.S., all of which
26 were of a sexual nature, involving fellatio and sexual intercourse. PHT, Vol. I, pp. 215-216.
27 The disk of the videos was marked as State's proposed Exhibit "16" and was admitted into
28 evidence. PHT, Vol. I, p. 217.

1 Exhibit 1, video No. 1 (**COUNT 77, 78**) was played in court and showed B.S. and
2 Deborah Sena engaged in sex acts. Defendant is in the video, partially, although not all of his
3 face and only part of his body can be seen. As the video begins, B.S. can be seen laying on
4 his back while Deborah Sena is performing oral sex (fellatio) on him. (**COUNT 71**) Deborah
5 Sena is then shown positioning herself on top of B.S. and she is inserting his penis into her
6 vagina. (**COUNT 72, 73**) Later, after a repositioning shown on the video, Defendant can be
7 seen and then Deborah Sena is shown positioned on her back and B.S. is inserting his penis
8 into her vagina, in a missionary position. PHT, Vol. I, pp. 218-220. (**COUNT 74, 75**) The
9 video then shows B.S. repositioned to the right side of Deborah Sena, while a male individual
10 is having sexual intercourse with her. The video shows Deborah Sena performing oral sex on
11 B.S., (**COUNT 76**) while Christopher Sena is engaging in sexual intercourse with Deborah
12 Sena. PHT, Vol. I, p. 220. A male voice can be heard on the video directing all of the actions
13 that are occurring, which Detective Ramirez believed to be Defendant based upon his body
14 type and the fact that the same voice can be heard instructing on all of the videos. PHT, Vol.
15 I, p. 221. State's proposed Exhibit "2" was a still photograph of B.S. and Deborah Sena from
16 the video that was viewed, and was admitted by the Court. PHT, Vol. I, p. 222.

17 Exhibit 1, video No. 2, (**COUNT 69**) depicts an individual without any clothes on
18 setting up the video camera. As he sits down he is identified as Defendant. Deborah Sena is
19 also in the video along with T.S. Deborah Sena is seen without clothing fondling her breasts
20 while performing oral sex on Defendant. Defendant gets up off the bed and bring back T.S.,
21 telling him to lie down on the bed. Deborah Sena performed oral sex on T.S. (**COUNT 61 in**
22 **alternative to 62**) while Defendant watched and masturbated. Deborah Sena can then be seen
23 laying on her back with T.S. inserting his penis into her vagina. (**COUNT 63 in alternative**
24 **to 64**) Defendant is pictured on the right side of the screen masturbating himself. The video
25 then shows T.S. laying down with Deborah Sena on top of him, helping him insert his penis
26 into her vagina. (**COUNT 65 in alternative to 66**) PHT, Vol. I, pp. 222-224. The video next
27 shows T.S. on his back with Deborah Sena performing oral sex on him (**COUNT 67 in**
28 **alternative to 68**) while Defendant is behind Deborah Sena engaging in sex with her. PHT,

1 Vol. I, p. 225. State's proposed Exhibit "3" was as still photo of T.S. right before he engaged
2 in the missionary position with Deborah Sena, which was admitted by the Court. PHT, Vol. I,
3 p. 226.

4 State's Exhibit "1", Video No. 3, depicted someone setting up a camera and a shower
5 curtain of a standup shower comes into view. Defendant is seen in the video and then T.S.
6 and Deborah Sena are observed entering the shower, neither are wearing clothes. Deborah
7 Sena is observed wiping something off of T.S.'s face. Defendant can be seen walking to the
8 camera and repositioning it. PHT, Vol. I, pp. 226-227. **(COUNTS 55 AND 56)** Detective
9 Ramirez testified that State's proposed Exhibit "4" was a still picture of T.S. and Deborah
10 Sena in the shower, taken from Video No. 3, which was admitted by the Court. PHT, Vol. I,
11 p. 228. **(COUNT 59 AND 60)**

12 Detective Ramirez described Exhibit 1, Video No. 4 as being shot through a door, with
13 the person in the video being T.G., who is in the shower with no clothes on. **(COUNTS 118**
14 **AND 119)** The video then pans down and shows Defendant receiving oral sex. Detective
15 Ramirez believed the Defendant to be the recipient of the oral sex based upon hearing his voice
16 on the video which is similar in nature to all of the others. PHT, Vol. I, pp. 228-229

17 On August 28, 2015, Detective Ramirez continued his preliminary hearing testimony.
18 With regard to Exhibit 1, Video No. 5, Detective Ramirez testified that it depicts video being
19 shot through an opening and is an image of E.C., in the stand-up shower. **(COUNTS 115-116)**
20 State's proposed Exhibit "6" was identified as a picture of E.C. in the shower, from the video
21 he had just observed. The video was admitted in to evidence by the Court. PHT, Vol. II, pp.
22 8-10.

23 Exhibit 1, Video No. 6 **(COUNTS 99 AND 100)** depicted a bedroom seen in previous
24 videos as well as parts of the Defendant in the mirror while he is adjusting the video camera.
25 The video proceeds to show Terrie Sena removing R.S.'s clothes. In the video, Terrie directs
26 R.S. to lie on his back and she places his penis in her mouth. **(COUNT 95)** R.S. is observed
27 using his left hand to fondle Terrie Sena's breast. The video also depicts Terrie positioning
28 R.S.'s hand on her breasts, showing him to massage her breasts, while she masturbates him

1 with her left hand. PHT, Vol. II, pp. 10-11. The video goes on to show R.S. kissing Terrie
2 Sena on her right breast and Terrie Sena continues to orally copulate R.S. The video shows
3 Terrie Sena positioned on her back with R.S. positioned between her legs penetrating her
4 vagina with his penis. **(COUNTS 96 AND 97)** PHT, Vol. II, pp. 11-12. The video shows
5 both Terrie Sena and R.S. stop and appear to look back, after which point they reposition
6 themselves in the missionary position and it appear that R.S. is penetrating Terrie Sena with
7 his penis in her vagina while she massages R.S.'s buttocks. PHT, Vol. II, pp. 12-13. The video
8 continues and Defendant appears and can be seen masturbating. Defendant points to R.S. to
9 get on the right side of Terrie Sena and he positions himself behind Terrie Sena, where he
10 appears to penetrate her vagina or anus while she performs oral sex on R.S. **(COUNT 98)**
11 PHT, Vol. II, p. 13. A conversation is being had during the incident, involving Defendant;
12 however, Detective Ramirez was not able to make out what was being said. PHT, Vol. II, p.
13 14. Detective Ramirez identified a still photograph, taken from the video, of R.S. and Terrie
14 Sena as State's Exhibit "7" PHT, Vol. II, p. 14.

15 Detective Ramirez testified that Exhibit 1, Video No. 7 depicts T.G. in the shower,
16 similar to the previous shower scenes **(COUNT 118 AND 119)**; and, identified State's Exhibit
17 No. "8" as a still photograph of T.G. from the video just viewed. PHT, Vol. II, p. 15. Detective
18 Ramirez testified that Exhibit 1, Video No. 8, depicts T.G. in the stand-up shower from the
19 previous video with the same angle filming; and, State's Exhibit "9" as a still photograph of
20 T.G., taken from the video. PHT, Vol. II, p. 16.

21 Detective Ramirez testified that other entries of evidentiary value came off the same
22 electronic storage device to include State's Exhibits 13 through 22 which he identified as being
23 images of M.C. and Terrie Sena. PHT, Vol. II, p. 17. State's proposed Exhibit "10" was
24 identified as a DVD containing images of the printed copies, to include stills of R.S. Terrie
25 Sena and Defendant. Those images were found to be relative to the investigation in that they
26 were a video that had been broken up into unallocated space, and contain images of Terrie
27 Sena, R.S. and Defendant engaging in sexual contact. PHT, Vol. II, pp. 18-19. Exhibit "10"
28 was admitted by the Court. **(COUNTS 103 AND 104)** PHT, Vol. II, p. 19.

1 Detective Ramirez identified frame number 0458 of Exhibit 10 as a room in the
2 residence labeled office. PHT, Vol. II, p. 20. Frame number 750 depicted R.S. sitting on a
3 stool, clothed, and other images of Terrie Sena. PHT, Vol. II, p. 21. Image number 1,000
4 depicts R.S. playing with his foot and Terrie Sena. PHT, Vol. II, p. 21. Image number 1328
5 depicts R.S. standing up and Terrie Sena knelt down and appearing to unbuckle R.S.'s shorts.
6 PHT, Vol. II, p. 21. Image number 1500 depicts R.S. removing his polo shirt, his shorts are
7 off and his penis is exposed. Terrie Sena is kneeling down holding a blue object of clothing
8 and is wearing her brassiere. PHT, Vol. II, p. 22. Image number 1640 depicts R.S. with his
9 shirt partially on and Terrie Sena has her mouth on R.S.'s penis, **(COUNT 101)** with her
10 brassiere off and her breasts exposed. PHT, Vol. II, p. 22. Frame number 4111 depicts R.S.
11 with his shirt partially on top. Terrie Sena has her mouth on R.S.'s penis and Defendant has
12 his pants partially down and is masturbating. PHT, Vol. II, p. 23. In the course of
13 viewing the frames Detective Ramirez was able to see Defendant's face and make a positive
14 I.D. Detective Ramirez explained that the video proceeds with still images of Terrie Sena's
15 mouth on Defendant's penis while she is holding R.S.'s penis and it goes back and forth with
16 the same sexual action, by Terrie Sena placing her mouth on R.S.'s penis. PHT, Vol. II, pp.
17 23-24. **(Count 102)** Detective Ramirez identified State's Exhibits 11 and 12 as follows:
18 Exhibit "11" depicts R.S. sitting in front of Defendant and Terrie Sena is standing to the left
19 of Defendant. Exhibit "12" depicts R.S. standing in front of Defendant, both still clothed, with
20 Terrie Sena is unbuckling the pants of R.S. PHT, Vol. II, p. 25.

21 **The Preliminary Hearing Testimony of E.C. Relevant to this Return**

22 E.C. testified that she was 14 years of age and in the ninth grade. E.C. further testified
23 that she lived with her mom, grandparents, cousin, two sisters, brother, and aunt. PHT, Vol.
24 II, p. 50. E.C. identified Defendant and indicated that he was her aunt's ex-husband. E.C.
25 testified that Defendant had been her uncle her entire life as far as she could remember and
26 she visited his residence at 6012 Yellowstone in North Las Vegas, Clark County, Nevada.
27 E.C. testified that she visited the residence more than one time and she began visiting when
28 she was 10 or 11 years of age, and in the fifth grade. PHT, Vol. II, p. 51. E.C. testified that

1 she went to Defendant's house almost every weekend to visit her aunt Terrie and her cousins,
2 R.S., A.S. and T.S. PHT, Vol. II, p. 52.

3 E.C. testified that when she was 11 years old Defendant would touch her breasts and
4 vagina, underneath her clothes, by having her lift up her shirt and put her pants to her ankles,
5 while they were in the office. PHT, Vol. II, p. 53. E.C. testified that it happened more than
6 one time and Defendant would fondle her breasts with his hands and rub his hands over her
7 vagina. PHT, Vol. II, p. 55. E.C. testified that she went to Defendant's house nearly every
8 weekend from the ages of 11 to 12 or 13, from the third grade through the seventh grade. PHT,
9 Vol. II, p. 56. E.C. testified that Defendant would fondle her breasts and vagina a couple of
10 times during each weekend that she was there during the fifth grade when she was 11 years of
11 age. E.C. remembered Defendant touched her more than three times, as it became a routine.
12 PHT, Vol. II, p. 58-59. E.C. testified that her birthday is December 21, 2000. E.C. testified
13 that the last time something happened was before Deborah Sena left in 2014. PHT, Vol. II, p.
14 60. E.C. testified that she would expect Defendant to touch her when she went over there and
15 she got used to it happening. PHT, Vol. II, p. 62. E.C. testified that she remembered those
16 things happening in the fifth grade, sixth grade, seventh grade, and eighth grade. PHT, Vol II,
17 p. 64. **(COUNTS 107-114).**

18 E.C. testified that she took a shower at the residence a couple of times. Specifically,
19 E.C. recalled an incident when she had lice in her hair. E.C. was shown a picture of herself
20 that was taken of her in the shower, in the office. E.C. testified the picture was taken sometime
21 between the fifth and seventh grade. E.C. did not know that the picture was being taken. PHT,
22 Vol. II, pp. 65-66. **(COUNTS 115 AND 116).**

23 **The Preliminary Hearing Testimony of T.G. Relevant to this Return**

24 T.G. testified that she was 18 years of age and her date of birth is January 9, 1997. T.G.
25 testified that Terrie Sena is her aunt and her mother's sister. T.G. testified that her mom is
26 Kimberly Grisham and that M.C. is her aunt, and E.C. is her cousin. T.G. testified that she
27 grew up in Las Vegas. PHT, Vol. II, p. 86. While growing up, T.G. spent time with her aunt,
28 Terrie Sena, and visited her residence located at 6012 Yellowstone, Las Vegas, Clark County,

1 Nevada. T.G. was seven or eight years of age when she began visiting Terrie Sena at that
2 address. T.G. visited every weekend until she was 15 years age. T.G. stopped visiting because
3 she no long wanted to go over to the residence. T.G. testified that Defendant, Terrie Sena, and
4 Deborah Sena lived at the residence when she visited, as did her cousins, T.S., A.S., B.S. and
5 R.S. PHT, Vol. II, pp. 87-88.

6 T.G. testified that Defendant once showed her a picture of her aunt, M.C., giving him
7 oral sex. **(COUNT 117)** T.G. was in the office when he showed her the picture, which was a
8 separate building behind the residence, with computers, a T.V., a couch, a little kitchen, and a
9 bathroom. PHT, Vol. II, p. 89. T.G. testified that Defendant showed her the pictures on the
10 computer and that she was 11 or 12 when that occurred. T.G. testified that they were just
11 looking at pictures and Defendant showed her that one. T.G. testified that she did not really
12 say much to Defendant when he showed her the picture. PHT, Vol. II, pp. 90-91.

13 T.G. testified that she utilized the shower in the office from the time she was 7 until she
14 was 15. T.G. viewed State's Exhibits "5", "8", and "9" and identified herself in those photos.
15 T.G. testified that the photos depicted her in the shower, in the office. T.G. testified that she
16 had no idea that she was being photographed while showering. T.G. testified that she was 13
17 or 14 years of age in the photographs that were taken. **(COUNTS 118 AND 119)**. PHT, Vol.
18 II, pp. 91-92. T.G. testified that she did not visit the residence or shower at the residence after
19 she turned 16. PHT, Vol. II, p. 93.

20 **The Preliminary Hearing Testimony of T.S. Relevant to this Return**

21 T.S. testified that he was 20 years of age and his birthday is December 2, 1994. T.S.
22 testified Defendant is his father and Terrie Sena is his biological mother. T.S. testified that
23 Deborah Sena is his stepmom; and, that he has a sister and two brothers. T.S. testified that
24 A.S. is the biological child of Defendant and Terrie Sena; R.S. is the biological child of Terrie
25 Sena; and, B.S. is the biological child of Defendant and Deborah Sena. PHT, Vol. II, pp. 107-
26 108.

27 //

28 //

1 T.S. testified that he had testified in a previous proceeding regarding sexual conduct
2 that was going on at the trailer located at 6012 Yellowstone. PHT, Vol. II, p. 108. During that
3 time, T.S., Defendant, Terrie Sena, Deborah Sena and the entire family lived there. T.S.
4 resided there from the time he was 5 until he moved out a month after he turned 18. PHT, Vol.
5 II, p. 109.

6 When T.S. was 14 or 15 years of age, he engaged in having sexual intercourse with
7 both of his parents, in the bedroom and in the shower. During the shower incident, he and
8 Deborah Sena had been painting and were dirty. Defendant told T.S. to get in the shower.
9 Deborah Sena was already in the shower, naked. T.S. thought the request was really weird
10 and did not want to do it. When T.S. got in the shower he and Deborah Sena began cleaning
11 each other at Defendant's instruction. **(COUNTS 55 AND 56)** Additionally, Deborah Sena
12 placed her mouth on T.S.'s penis and gave him a "blowjob". **(COUNT 54)**. Deborah Sena
13 also bent over in the shower and T.S. placed his penis around her vaginal area, at Defendant's
14 instruction. T.S. stated that his penis did not go into the hole but did go between the lips of
15 Deborah's vaginal area. **(COUNT 57 AND 58)**. PHT, Vol. II, pp. 110-114.

16 T.S. testified that the incident occurring in the bedroom also happened when he was
17 between the ages of 14 and 15, during the day. T.S. was called into the bedroom by Defendant.
18 When T.S. went into the bedroom Defendant was naked. Defendant told T.S. to remove his
19 clothes. Deborah Sena came into the bedroom and also got naked. T.S. inserted his penis
20 between the lips of Deborah Sena's vaginal area, while Defendant inserted his penis into
21 Deborah Sena's anal opening. T.S. testified that prior to such act but during the same incident
22 Deborah Sena placed his penis in her mouth. PHT, Vol. II, pp. 117-118. T.S. watched the
23 video of himself, Deborah Sena, and Defendant engaging in various sexual acts, in the
24 bedroom. T.S. testified that while he may not remember all of the details, the video speaks
25 for itself. T.S. was shown State's Exhibits "3" and "4" and identified Exhibit "3" as a
26 photograph of him in the shower with Deborah Sena and Exhibit "4" as a photograph of him
27 and Deborah Sena in the bedroom. PHT, Vol. II, pp. 121-122. **(COUNT 61 in the alternative**
28 **to 62; COUNT 63 in the alternative to 64; COUNT 65 in the alternative to 66; COUNT**

1 **67 in the alternative to 68; and COUNT 69)**

2 **The Preliminary Hearing Testimony of B.S. Relevant to this Return**

3 B.S. testified that he was 17 years of age and his date of birth is August 13, 1998. B.S.
4 further testified that he is a senior at Bonanza High School. B.S. testified that he lives with
5 his sister, A.S., but he used to reside at the residence located at 6012 Yellowstone Avenue,
6 North Las Vegas, Clark County, Nevada. B.S. lived at the Yellowstone address from 1998
7 until June of 2014. PHT, Vol. II, pp. 147-149. B.S. testified that he lived at the residence with
8 his half-sister, A.S. and his half-brother, T.S., and R.S. B.S. testified that Defendant and
9 Deborah Sena are his parents and they lived in residence, as did Terrie Sena. PHT, Vol. II, pp.
10 149-151. B.S. testified that when he was 14 years old he engaged in sex acts with Terrie Sena
11 in the back office area. B.S. described the office area as having a computer, anime dolls, a
12 kitchen, and a bathroom. B.S. testified that Defendant was present when he engaged in the
13 sex acts with Terrie Sena. PHT, Vol. II, pp. 152.

14 B.S. testified that Defendant told him to pull down his pants and Terrie Sena gave him
15 oral sex. **(COUNT 79)**. B.S. testified that he put his penis in Terrie Sena's vagina. **(COUNT**
16 **80)** B.S. testified that Defendant stood and watched the entire thing and was trying to direct
17 them. During the incident, Defendant also told B.S. to touch Terrie Sena's boobs with his
18 hands. PHT, Vol. II, pp. 153-156. **(COUNTS 81 AND 82)**.

19 B.S. testified that Defendant had him come to the back office to have sex with Terrie
20 Sena and touch her breasts, twice. PHT, Vol. II, p. 156.

21 B.S. clarified that the first time he went to the back office his penis went into Terrie
22 Sena's mouth; his penis went into Terrie Sena's vagina; and, he touched Terrie Sena's boobs,
23 when he was 14 years of age. **(COUNTS 79 – 82)** PHT, Vol. II, p. 157.

24 B.S. testified that the second time something happened in the office he was still 14
25 years old and he had gone into the back office for something early in the morning. B.S.
26 testified that he and Defendant and Terrie Sena were the only people in the office. B.S.
27 testified that Defendant told him and Terrie Sena to have sex and directed them. On that
28 occasion, B.S. put his penis in Terrie Sena's vagina. **COUNT 83)** B.S. provided specific

1 testimony that he did, in fact, touch Terrie Sena's breasts each time he went to the office and
2 engaged in sexual acts with her, B.S. also testified that he may have touched Terrie Sena's
3 breasts on that occasion but he could not remember. **(COUNTS 84-85)** PHT, Vol. II, pp. 161-
4 162.

5 B.S. testified that he had sexual contact with Deborah Sena in the bedroom when he
6 was 14 years of age. B.S. was watching T.V. Defendant called B.S. outside to the pool where
7 Defendant was with Deborah Sena. Defendant and Deborah took off their clothes and began
8 having sex in the pool. B.S. tried to look away but Defendant told him to remove his clothing
9 and told B.S. to watch him and Deborah having sex. **(COUNT 70)** PHT, Vol. II, pp. 163-
10 164. After they left the pool and went back inside the house, Defendant brought B.S. into the
11 bedroom where he and Deborah Sena were. Defendant had B.S. strip and get onto the bed.
12 Defendant instructed Deborah to sit on B.S.'s "dick" which went inside Deborah Sena's
13 vagina. PHT, Vol. II, pp. 165-166. **(COUNTS 72-73)**. B.S. then got on top of Deborah Sena
14 and put his dick back inside her vagina **(COUNT 74-75)**. B.S. testified that before the sexual
15 intercourse occurred, Defendant told Deborah Sena to give B.S. a blow job and she placed his
16 penis in her mouth. **(COUNT 71)**. PHT, Vol. II, pp. 166-168.

17 B.S. testified that he never told anyone about what had been happening in the house
18 due to death threats from the Defendant. Defendant told B.S. and other members of the
19 household that he would kill them if they told what was going on with anything. On cross
20 examination B.S. testified that he mentioned to the police something about [Defendant]
21 threatening to break his legs. PHT, Vol. II, pp. 168-170. **(COUNT 86)**.

22 **The Preliminary Hearing of A.S. Relevant to this Return**

23 A.S. testified that she was 25 years of age and her birthday is May 22, 1990. A.S.
24 graduated from high school in early June 2008. A.S. testified that Defendant is her father;
25 Deborah Sena is her stepmother; and, Terrie Sena is her mother. A.S. testified that she had
26 three brothers, B.S., age 17; R.S., a half-brother, age 17; and, T.S., age 20. PHT, Vol. III, pp.
27 6-7. A.S. testified that when she was 11 years old she living at 6012 Yellowstone Avenue,
28 North Las Vegas, Clark County, Nevada, with Defendant, Deborah Sena, Terrie Sena, T.S.,

1 B.S., and R.S. PHT, Vol. III, p. 8. During that time, A.S. would come home from school and
2 Defendant would be there. Defendant would ask A.S. if she loved him and when she said yes,
3 he wanted her to show him that she loved him. Defendant asked A.S. to take her clothes off
4 and touched her breasts area. **(COUNT 2)** A.S. testified that Defendant rubbed her clit with
5 his fingers, between the lips of her vagina area. **(COUNTS 3 AND 4)** PHT, Vol. III, pp. 13-
6 14. Defendant told A.S. to get on the bed and removed his dick/penis from his jeans and began
7 rubbing it on the outside of A.S.'s pussy/vagina. **(COUNT 5)** Defendant instructed A.S. to
8 spread out a little and she was laying on her back on the bed with her legs hanging off the bed.
9 Defendant lifted her legs and spit on his hands, rubbing saliva on his dick/penis. Defendant
10 penetrated A.S.'s anus with his penis which hurt her. **(COUNT 6 AND 7)** A.S. told
11 Defendant that it hurt her and he told her "It's going to hurt but this is life." Defendant came
12 inside of A.S.'s anus and told her to get dressed because the moms would be home. PHT, Vol.
13 III, pp. 15-16.

14 Defendant had anal intercourse with A.S. frequently, from time she was 11 years in
15 May 2001 until 2009. A.S. testified that it normally happened when the moms were gone
16 during the weekdays, two or three times a week. A.S. testified that on a rare occasion
17 Defendant would go more than a week without doing it, but he never went more than one
18 month without doing it. In 2009, when A.S. was 19 years of age, it became less frequent.
19 PHT, Vol. III, pp. 17-18. A.S. testified that Defendant would do that to her in his room; in her
20 room; in the master bathroom; in the living room; and, in the boys' room. PHT, Vol. III, p.
21 19-20. **(COUNTS 8, 9, 11, 12, 16, 17, 23, 28, 33, 38, 43).**

22 A.S. testified that Defendant would rub his hands on her boobs, at least once a month,
23 when he was putting his penis in her. PHT, Vol. III, p. 21. **(COUNT 10, 13, 18, 24, 29, 34,**
24 **39, 44)** When A.S. was 14 years of age (May 22, 2004) Defendant began doing other things
25 to her. A.S. testified that she was taking a shower and Defendant came into the bathroom and
26 jumped into the shower with her. Defendant rubbed A.S.'s boobs and then told her to get up
27 against the wall. Defendant tried to put his penis in her anal opening but he inserted into her
28 vagina, taking her virginity. (PHT, Vol. III, p. 22. A.S. testified that Defendant put his penis

1 into her vagina on more than one occasion; and, that it happened every two weeks; never less
2 than once a month. Defendant would put his penis in A.S.'s vaginal opening in the living room;
3 in the boys' room; in the master bedroom; and, in A.S.'s room. PHT, Vol. III, pp. 23-24.
4 **(COUNTS 21, 22, 26, 27, 31, 32, 36, 37, 41, 42).**

5 A.S. testified that there were times that Defendant would put himself inside her vagina
6 and then he would put himself inside her anal opening. There was also times that he would
7 have anal sex one day and vaginal sex the other. PHT, Vol. III, p. 25. A.S. testified that
8 during that time there were days that Defendant would put his penis up against her boobs and
9 he would have her give him a blow job. A.S. was 12 years old the first time she gave Defendant
10 a blow job. A.S. gave Defendant blow jobs from the time she was 12 years old up to 2013.
11 A.S. would do this one or twice a month and some months not at all. A.S. would do this
12 mainly in the living room and the master bedroom. **(COUNTS 14, 15, 19, 20, 25, 30, 35, 40,**
13 **45)** A.S. was 23 years old in 2013. A.S. left the house in June 2013. The last time something
14 happened with Defendant was in January 2013. PHT, Vol. III, pp. 25-27.

15 When A.S. was 14 years of age, Defendant, Terrie Sena, and A.S. were in the
16 Defendant's back office. Terrie Sena gave Defendant a blow job, which A.S. described
17 Defendant's penis in Terrie Sena's mouth, while A.S. watched. Defendant inserted his penis
18 into A.S.'s anal opening, while Terrie Sena watched. **(COUNT 52)** PHT, Vol. III, pp. 29-31.

19 A.S. testified that when she was 17 to 18 years of age, during the last few months of
20 high school, before graduation, A.S. got home from school and Defendant brought Deborah
21 Sena out to where A.S. was. Defendant told A.S. to get naked and wanted her and Deborah
22 Sena play with each other's boobs and rub each other's clits. A.S. played with Deborah Sena's
23 clit and Deborah Sena rubbed the outside area of A.S.'s vagina. **(COUNTS 48, 49)** Defendant
24 had Deborah Sena get on top of A.S. Defendant inserted his penis into A.S.'s vagina while
25 Deborah was still on top of A.S. **(COUNTS 46 AND 47)** Defendant removed his penis and
26 put it in Deborah Sena's vagina or anus, while Deborah Sena was on top of A.S., with her
27 nipples touching A.S.'s chest. PHT, Vol. III, pp. 32-36. Defendant had Deborah Sena get on
28 her back and he placed a pillow under Deborah Sena's back before penetrating her again.

1 Defendant had A.S. play with herself so he could watch. A.S. touched the outside of her vagina
2 with her hand. **(COUNT 51)** PHT, Vol. III, p. 37. A.S. clarified that she touched Deborah
3 Sena's boobs **(COUNT 50)** and Deborah Sena touched her boobs; that Deborah Sena touched
4 the outside of A.S.'s pussy and A.S. touched Deborah Sena's clit. PHT, Vol. III, p. 38.

5 A.S. testified that she never told anybody in fear of what Defendant would do. A.S.
6 testified that Defendant would use threats and tell her that she was going to be taken away and
7 sent to Juvi. Defendant also told A.S. that she would do those things if she loved him. PHT,
8 Vol. III, pp. 40. **(COUNT 53)**

9 A.S. testified that between the ages of 11 and 14, Defendant engaged primarily in anal
10 intercourse with her. Additionally, without a doubt, Defendant engaged in vaginal and/or anal
11 intercourse with her at least once a year from the time she was 11 years of age until she was
12 23 years of age. Defendant also put his finger in A.S.'s pussy at least once a year throughout
13 that same time period. PHT, Vol. III, pp. 40-41.

14 **The Preliminary Hearing Testimony of R.S. Relevant to this Return**

15 R.S. testified that he was 17 years of age and his date of birth is June 14, 1998. R.S.
16 testified that he was a senior in high school and attends Sunset High School. R.S. testified
17 that he lives with his biological dad and had been living there since December 2014. R.S.
18 testified that his biological mother is Terrie Sena. PHT, Vol. IV, pp. 14-15. R.S. testified that
19 he lived at the residence located at 6012 Yellowstone Avenue, Las Vegas, Clark County
20 Nevada his entire life, until he moved out when he was 16 years old, back in June 2014. PHT,
21 Vol. III, pp. 15-16. When R.S. lived at the residence, he lived there with A.S., T.S., B.S.,
22 Deborah Sena, Defendant, and Terrie Sena. PHT, Vol. IV, pp. 17-29.

23 R.S. testified that when he was 12 and 13 years old, in the seventh or eighth grade,
24 Defendant sexually abused him. The abuse happened more than once and it happened in R.S.'s
25 room, Defendant's room, the office, and the living room. PHT, Vol. III, pp. 21-22. R.S.
26 testified that Defendant made him remove his clothes and he would touch R.S.'s behind where
27 poop comes out, with his dick. R.S. described an incident that occurred when he was 12 or 13,
28 in his bedroom, and Defendant came in and made R.S. remove his clothes, by yelling at him

1 and grabbing him. R.S. was afraid Defendant would come after him and hurt him if he did not
2 do what Defendant said. R.S. got onto the bedroom floor and laid flat on his stomach while
3 Defendant inserted his penis into R.S.'s anal opening. **(COUNT 87 AND 88)**. PHT, Vol. IV,
4 pp. 27-29. Another incident occurred in the Defendant's office, a separate building at the back
5 of the house, when R.S. was 14 or 15 years old. Defendant showed R.S. videos on his
6 computer. R.S. testified that the video was of Defendant and Terrie Sena having sex in the
7 back office. PHT, Vol. IV, pp. 29-31. **(COUNT 105)**

8 R.S. testified that when he was in junior high school, between 12 or 13 years of age, he
9 and Defendant were in the living room. R.S. had no pants or underwear on, nor did Defendant.
10 Defendant sat on the couch and had R.S. sit on his penis, inserting his penis into R.S.'s butt.
11 R.S. did not want to do that and Defendant forced him. **(COUNTS 89 AND 90)**. R.S. testified
12 that Defendant put his penis inside R.S.'s butt on three occasions when R.S. was in junior high
13 school and 12 or 13 years old; once in R.S.'s bedroom; once in the living room; and, once in
14 Defendant's room. **(COUNTS 91 AND 92)** PHT, Vol. IV, pp. 34-36.

15 R.S. testified that Defendant stopped his conduct for a little while when R.S. was 15
16 years of age. R.S. had no idea why it stopped at that time. PHT, Vol. IV, p. 36. R.S. testified
17 that when it started again he was still 15 years old and it went on until R.S. moved out of the
18 residence in June 2014. R.S. testified that it happened on two separate occasions, once in
19 Defendant's office and once in Defendant's room. The incident in the office occurred while
20 Defendant was sitting naked, on his computer chair, and R.S. sat on him and he inserted his
21 penis into R.S.'s butt. **(COUNT 93)**. The incident in Defendant's bedroom occurred with R.S.
22 laying on his stomach, on the bed, and Defendant inserting his penis into R.S.'s butt. **(COUNT**
23 **94)** PHT, Vol. IV, pp. 38-40.

24 R.S. testified that his mom, Terrie Sena, also engaged in sexually abusing him, on two
25 separate occasions. The incidents occurred in the office and in Defendant's room. The first
26 incident occurred in the bedroom prior to R.S. turning 16. R.S. went into the bedroom because
27 his mom was in there. Terrie Sena was talking to R.S. and began taking off his clothes.
28 Defendant was in the hallway and watching what was happening. Terrie Sena took all of

1 R.S.'s clothes off and Defendant told R.S. to lay on the bed, on his back. Terrie Sena removed
2 her clothes and began sucking on R.S.'s dick. PHT, Vol. IV, pp. 41-44. **(COUNT 95)**.
3 Defendant instructed Terrie Sena to lay on her back and had R.S. get on top of her and insert
4 his dick into her private spot. **(COUNTS 96 AND 97)**. PHT, Vol, IV, p. 45. Defendant had
5 R.S. get off of Terrie Sena and lay down on his back. Terrie Sena sucked R.S.'s dick while
6 Defendant got behind Terrie Sena. **(COUNT 98)**. R.S. testified that he did not want to do any
7 of those things but he was forced to do it by Defendant. PHT, Vol. IV, p. 46.

8 When R.S. was 12 or 13, he went to Defendant's office so that Defendant could help
9 him with an ingrown toenail. Afterward, Defendant told R.S. to stand up and Terrie Sena
10 removed R.S.'s clothes from the waist down. Terrie Sena sucked on R.S.'s dick. Terrie Sena
11 alternated and began sucking on Defendant's dick and then sucked on R.S.'s dick PHT, Vol.
12 IV, pp. 48-50. **(COUNTS 101 AND 102)**. R.S. testified that Defendant told him that if he
13 ever told somebody he and Terrie Sena would hate him and Defendant would make his life a
14 living hell. PHT, Vol. IV, p. 50. **(COUNT 106)**.

15 LEGAL ARGUMENT

16 STANDARD OF PROOF AT PRELIMINARY HEARING

17 In order to hold a person for trial, a justice of the peace must find probable cause to
18 believe that an offense was committed and that the defendant in question committed the
19 offense. NRS 172. 155; Kirksey v. State. 112 Nev. 980, 923 P.2nd 1102, 1108 (1996). In other
20 words, during the preliminary proceeding, the State must elicit sufficient evidence
21 demonstrating probable cause that a crime was committed and that the accused was likely the
22 perpetrator. Sheriff v. Miley, 99 Nev. 377, 379, 663 P.2d 343, 344 (1983); NRS 172.155. As
23 such, an Information will be sustained where the State submits sufficient legal evidence to
24 establish probable cause. Sheriff v. Simpson, 109 Nev. 430, 434-35, 851 P.2d 428, 431- 32
25 (1993). "The finding of probable cause may be based on slight, even 'marginal' evidence,
26 because it does not involve a determination of the guilt or innocence of an accused." Id. at
27 435, 851 P.2d at 432 (quoting Sheriff v. Hodes, 96 Nev. 184, 186, 606 P.2d 178, 180 (1980)
28 (citations omitted)). A preliminary hearing need not be perfect; the proceeding need only

1 provide a defendant with fair consideration. Franklin v. State, 89 Nev. 382, 389, 513 P.2d
2 1252, 1257 (1973). The preliminary hearing functions merely to determine whether the State
3 has sufficient probable cause to pursue charges against the defendant. Since the burden of
4 proof at a preliminary hearing is so much lower than that required at trial, the evidence adduced
5 at the hearing need not be sufficient to support a conviction. Abbott v. Sheriff, 87 Nev. 397,
6 487 P.2d 1067 (1971). The State need not produce the quantum proof necessary to establish
7 guilt of the accused beyond a reasonable doubt. Id. The State only has to present enough
8 evidence to support a reasonable inference that the accused committed the crime and does not
9 need to negate all possible inferences as to doubt. *See*, Lamb v. Holsten, 85 Nev. 566, 568,
10 459 P.2d 771, 772 (1969); Johnson v. State, 82 Nev. 338, 341, 418 P.2d 495, 496 (1966).
11 Further, a Petition for Writ of Habeas Corpus is not a vehicle to determine factual disputes as
12 those are matters reserved for the trier of fact at the time of trial. Brymer v. Sheriff, 92 Nev.
13 598 (1976); Wrenn v. Sheriff, 87 Nev. 85 (1971). In sum, if the evidence produced at the
14 preliminary examination establishes a reasonable inference that the defendant committed the
15 charged crimes, probable cause exists to order the defendant to answer in the district court.
16 Morgan v. Sheriff, 86 Nev. 23, 476 P.2d 600 (1970).

17 **I. The State Presented Sufficient Evidence that CHRISTOPHER SENA**
18 **Committed the Crime of Conspiracy to Commit Sexual Assault as Further**
19 **Alleged in Count 1 of the Information**

20 Count 1 charges CHRISTOPHER SENA with Conspiracy to Commit Sexual Assault
21 as follows:

21 did, on or between May 22, 2007 and January 31, 2014, willfully,
22 unlawfully, and feloniously conspire with DEBORAH SENA
23 and/or TERRIE SENA and/or others unknowns to commit a
sexual assault, by performing those acts described in Counts 46
through 52; 54 through 59; 61 through 77; 79 through 85; 95
through 99; 101 through 103 and 105.

24 A conspiracy is an agreement between two or more persons for an unlawful purpose.
25 Doyle v. State, 112 Nev. 879, 886, 921 P.2d 901, 911 (1996). The conspiracy agreement may
26 be inferred by a “coordinated series of acts” in furtherance of the underlying offense. Doyle,
27 *supra*; *see also*, Gaitor v. State, 106 Nev. 785, 790 n.1, 801 P.2d 1372, 1376 n.1 (1990);
28 *overruled on other grounds by*, Barone v. State, 109 Nev. 1168, 1171, 866 P.2d 291, 292

1 (1993).

2 The law concerning the sufficiency of the evidence to support a conspiracy charge is
3 well established as recognized by the Nevada Supreme Court:

4 . . . Direct evidence is not required to establish a conspiracy, but
5 circumstantial evidence may be relied upon. This rule is
6 sanctioned for the obvious reason that experience has
demonstrated that as a general proposition a conspiracy can only
be established by circumstantial evidence.

7 Sheriff v. Lang, 104 Nev. 539, 543, 763 P.2d 56 (1988) *citing* Goldsmith v. Sheriff, 85 Nev.
8 295, 304, 454 P.2d 86, 92 (1969), (*quoting* People v. Massey, 312 P.2d 365, 382 (Cal. Ct. App.
9 1957)).

10 The issue of sufficiency of the evidence for conviction has been addressed by the
11 Nevada Supreme Court:

12 We recognize and appreciate the concerns expressed in the
13 dissenting opinion. Nonetheless, “[c]onspiracy is seldom
14 susceptible of direct proof and is usually established by inference
15 from the conduct of the parties.” State v. Dressel, 513 P.2d 187,
188 (N.M. 1973), *citing* Oliver v. United States, 121 F.2d 245
16 (10th Cir. 1941), *cert. denied* 314 U.S. 666 (1941). The facts of
17 this case do demonstrate a coordinated series of acts, sufficient to
18 infer the existence of an agreement essential to the conspiracy
19 convictions of the appellants: Gaitor and Allen approached the
20 victim together, at the same time of the night, in the same location,
21 with the same apparent motive; they simultaneously robbed Mr.
22 Lockhart, each taking a role in the attack, and then they fled. It
may be possible that through some symbiotic relationship the two
appellants happened to be on the same street, at the same time,
with the same intent to rob someone and, without more, elected to
approach the victim together and coordinate their assault.
However, the realm of possibilities is not controlling here. Rather,
the issue asks whether there is substantial evidence to support the
jury’s conclusion that the appellants’ conspired to commit the
crime. We conclude there was.

23 Gaitor v. State, 106 Nev. 785, 790 at fn 2, 801 P.2d 1372 (1990).

24 Further, NRS 195.020 is applicable and states:

25 Every person concerned in the commission of a felony, gross
26 misdemeanor or misdemeanor, whether the person directly
27 commits the act constituting the offense, or aids or abets in its
28 commission, and whether present or absent; and every person
who, directly or indirectly, counsels, encourages, hires,
commands, induces or otherwise procures another to commit a
felony, gross misdemeanor or misdemeanor is a principal, and

1 shall be proceeded against and punished as such. The fact that the
2 person aided, abetted, counseled, encouraged, hired, commanded,
3 induced or procured, could not or did not entertain a criminal
intent shall not be a defense to any person aiding, abetting,
counseling, encouraging, hiring, commanding, inducing or
procuring him or her.

4 In Walker v. State, 6 P.3d 477 (2000), the Supreme Court of Nevada held, “the State
5 may proceed on alternate theories of liability as long as there is evidence in support of those
6 theories.” Further, “although the State must allege specific facts concerning its theories of
7 liability so as to afford a criminal defendant adequate notice to prepare his defense, it is not
8 necessary to plead a conspiracy in the charging document if the evidence actually shows its
9 existence.” The Supreme Court then concluded “that the information in this case was
10 sufficiently detailed to put Walker on notice that the State was pursuing alternate theories of
11 criminal liability. In particular, the State alleged three theories of principal liability in Walker's
12 information: (1) Walker directly committed the offense; (2) Walker aided and abetted in the
13 offense by acting in concert in its commission; and (3) Walker conspired to commit the offense
14 and is vicariously liable for acts committed in furtherance of the conspiracy.” Id. at 479.

15 It is a well settled principle in Nevada that evidence of participation in a conspiracy
16 may, in itself, be sufficient evidence of aiding and abetting an act in furtherance of the
17 conspiracy to subject the participant to criminal liability as a principal pursuant to NRS
18 195.020. Lewis v. State, 100 Nev. 456, 460, 686 P.2d 219 (1984).

19 Therefore, in Nevada the acts of one conspirator in furtherance of the conspiracy are
20 the acts of all, and each and every individual will be held criminally responsible for the acts
21 of the other. Therefore, in Nevada the acts of one conspirator in furtherance of the conspiracy
22 are the acts of all, and each and every individual will be held criminally responsible for the
23 acts of the other.

24 In this case, CHRISTOPHER SENA, has, in fact, engaged in directly committing the
25 crimes charged along with DEBORAH SENA and/or TERRIE SENA. Moreover, the State is
26 entitled to allege other theories of principle liability as was done in Walker, supra. The State
27 has also rightfully put CHRISTOPHER SENA on notice that he is being charged with assisting
28 or aiding and abetting DEBORAH SENA and/or TERRIE SENA. The State contends that

1 there was sufficient evidence provided, for purposes of Preliminary Hearing, to show
2 Defendant is either directly or vicariously liable for the criminal conduct detailed in Counts
3 **46 through 52** (as detailed at pgs. 20-21 of the subject Return); **54 through 58** (as detailed
4 at pg. 16 of the subject Return); **59** (as detailed at pg. 11 of the subject Return); **61**
5 **through 69** (as detailed at pgs. 10 through 11 and 16 through 17 of the subject Return);
6 **70 through 76** (as detailed at pg. 10 and 18 of the subject Return); **77** (as detailed at
7 pg. 18 of the subject Return); **79 through 85** (as detailed at pgs. 17 through 18 of the
8 subject Return); **95 through 98** (as detailed at pg. 12 of the subject Return); **99** (as
9 detailed at pg. 12 of the subject Return); **101 through 102** (as detailed at pg. 23 of the
10 subject Return); **103** (as detailed at pgs. 12 through 13 of the subject Return) and **105** (as
11 detailed at pg. 22 of the subject Return); and **1** (as detailed via the above references of
12 the subject Return), along with Debora Sena and/or Terri Sena. As such, those counts must
13 stand.

14 **II. The State Presented Sufficient Evidence that Defendant Committed the Crimes**
15 **Further Alleged in Counts 8-20 and 23-45 Involving Victim A.S.**

16 Defendant's Petition for Writ of Habeas Corpus challenged the specificity of dates and
17 details of A.S.'s testimony related to the crimes of Sexual Assault with a Minor Under the Age
18 of 14; Lewdness with a Child Under the Age of 14; Incest; Sexual Assault with a Minor Under
19 Sixteen Years of Age; Open or Gross Lewdness; and Sexual Assault.

20 **A. SPECIFICITY**

21 In LaPierre v. State, 108 Nev. 528, 531 (1992), the Nevada Supreme Court stated:

22 "We have repeatedly held that the testimony of a sexual assault
23 victim alone is sufficient to uphold a conviction. (Citations
24 omitted). However, the victim must testify with some particularity
25 regarding the incident in order to uphold the charge. We are
26 cognizant that child victims are often unable to articulate specific
27 times of events and are oftentimes reluctant to report the abuse to
28 anyone until quite some time after the incident. Cunningham v.
State, 100 Nev. 396, 400, 683 P.2d 500, 502 (1984). We also
understand that it is difficult for a child victim to recall exact
instances when the abuse occurs repeatedly over a period of time.
**We do not require that the victim specify exact numbers of
incidents, but there must be some reliable indicia that the
number of acts charged actually occurred. . ."** (Emphasis

Added).

The victim, in *LaPierre*, testified with particularity to four of the ten incidents of sexual assault. At trial the child was asked how many times the Defendant had assaulted her and she answered “Ten or more.” When asked how she knew that was the number she answered, “Because he was doing - - I don’t know. I know it’s ten or more because he was doing it up until he left.” When she was asked later if she was absolutely sure how many times it happened she answered, “No I am not absolutely sure. That’s why I said ten or more.”² *Id.*

The Supreme Court further stated:

“In this case, the child's testimony consisted of her speculation that it must have happened at least ten times. Something more is required to support **a conviction**. If the victim in this case had testified that the incidents occurred every weekend for the period of time Richard resided in the family home or that he assaulted her nearly every weekend, we might view this case differently.” (Emphasis added)

LaPierre, at 529 (Emphasis added).

In *Rose v. State*, 123 Nev. 24, 163 P.3d 408 (2007), our Nevada Supreme Court stated:

The Due Process Clause of the United States Constitution requires that an accused may not be convicted unless each fact necessary to constitute the crime with which he is charged has been proven beyond a reasonable doubt. [FN3]¹ When determining whether a jury verdict was based on sufficient evidence to meet due process requirements, we will inquire “whether, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.” [FN4]² “[I]t is the jury's function, not that of the court, to assess the weight of the evidence and determine the credibility of witnesses.” [FN5]³

Id., 123 Nev. 194 at 202-203, 163 P.3d 408 at 414.

The Court went on to state:

When considering the sufficiency of the evidence in sexual assault cases, we have held that the victim's testimony alone is sufficient to uphold a conviction. [FN6]⁴ Although the victim's testimony need not be corroborated, we have held that “the victim must testify with some particularity regarding the incident in order to

¹ FN3. *Fiore v. White*, 531 U.S. 225, 228-29, 121 S.Ct. 712, 148 L.Ed.2d 629 (2001); *In re Winship*, 397 U.S. 358, 364, 90 S.Ct. 1068, 25 L.Ed.2d 368 (1970); *Origel-Candido v. State*, 114 Nev. 378, 382, 956 P.2d 1378, 1381 (1998).

² FN4. *Origel-Candido*, 114 Nev. at 381, 956 P.2d at 1380 (quoting *Koza v. State*, 100 Nev. 245, 250, 681 P.2d 44, 47 (1984)).

³ FN5. *Id.* (quoting *McNair v. State*, 108 Nev. 53, 56, 825 P.2d 571, 573 (1992)) (alteration in original).

⁴ *La Pierre v. State*, 108 Nev. 528, 531, 836 P.2d 56, 58 (1992).

1 uphold the charge.” [FN7]⁵ In evaluating whether a child-victim's
2 uncorroborated testimony was sufficient to support multiple
3 charges in *LaPierre v. State*, we acknowledged that “child victims
4 are often unable to articulate specific times of events” and have
5 difficulty recalling “exact instances when the abuse occurs
repeatedly over a period of time.” [FN8]⁶ Accordingly, we
explained in *LaPierre* that to support multiple charges of sexual
abuse over a period of time, a child victim need not “specify exact
numbers of incidents, but there must be some reliable indicia that
the number of acts charged actually occurred.” [FN9].⁷

6 Rose, 123 Nev. 194 at 203, 163 P.3d 408 at 414-415.

7 The Rose Court concluded:

8 In this case, the State charged Rose with twenty counts of sexual
9 assault. C.C. and others testified that from late 1999 to July 2002,
she spent at least one night at the Roses' house almost every
10 weekend. C.C. testified that Rose touched her nearly every time
she spent the night. The only times he did not touch her were when
11 he was away in the Navy from September 2001 to March 2002.
Although she could not specify an exact number of incidents, she
12 testified that he touched her vagina with his fingers more than ten
times and with his tongue more than ten times. She described
13 different locations where she was touched and graphically detailed
his actions. She recalled seeing the time on the clock when he
14 assaulted her in certain rooms, and she described how she
sometimes tried to fight him off and how he would flip her over if
15 she was on her stomach.

16 The victim's testimony in this case is distinguishable from that of
the victim in *LaPierre*. C.C. definitively testified that Rose
17 assaulted her nearly every time she spent the night at his house
before and after he was away in the Navy and that she spent the
18 night at his house almost every weekend during that time. This is
the kind of testimony that we opined “might” have made a
19 difference in *LaPierre*. Faced with such testimony here, we
conclude it is sufficient. Taking the evidence in the light most
20 favorable to the prosecution, a rational trier of fact could have
found the essential elements of the charged sexual assaults beyond
21 a reasonable doubt. Accordingly, Rose's conviction was supported
by sufficient evidence.

22 Rose, 123 Nev. 194 at 203-204, 163 P.3d 408 at 414-415.

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27 _____
⁵ *Id.*

28 ⁶ *Id.*

⁷ *Id.*

1 **1. Initial Incident Involving A.S. and Defendant (COUNTS 2 – 7):**

2 A.S.'s first memories of sexual abuse at the hands of Defendant was on or between
3 May 22, 2001 and June 30, 2004, when A.S. was approximately eleven (11) years of age. PHT,
4 Vol. III, p. 8. At that time, Defendant committed various crimes upon A.S.:

5 **SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE:**

6 - Digital Penetration of the Vaginal Opening (**COUNT 3**)

7 - Penile Penetration of the Anal Opening (**COUNT 6**)

8 The acts of sexual penetration were committed either against the will of A.S. or under
9 circumstances under which Defendant knew, or should have known, that A.S. was mentally
10 or physically incapable of resisting or understanding the nature of Defendant's conduct

11 **LEWDNESS WITH A CHILD UNDER FOURTEEN YEARS OF AGE:**

12 - Fondle Vaginal Area with Hand (**COUNT 4 IN ALTERNATIVE TO**
13 **COUNT 3**)

14 - Fondle Anal Area with Penis (**COUNT 7 IN ALTERNATIVE TO**
15 **COUNT 6**)

16 - Fondle Breasts (**COUNT 2**)

17 - Fondle Genital Area with Penis (**COUNT 5**)

18 The acts of Lewdness with a Child Under the Age of 14 were clearly committed with
19 the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desires of the
20 Defendant or A.S.

21 **PHT, Vol. III, pp. 13-16.**

22 **Apparently, Defendant is not challenging Counts 2-7 for lack of specificity. (See**
23 **Footnote 2, of Defendant's unpaginated Petition for Writ of Habeas Corpus).**

24 **2. Course of Continual Abuse on or Between May 22, 2001 and**
25 **August 30, 2014 (COUNTS 8 – 45)**

26 After the first incident, A.S. was sexually abused by Defendant from the time she was
27 approximately eleven (11) years of age until she was twenty-five (25). The regular abuse
28 began with Defendant regularly penetrating the anal opening of A.S. with his penis and

1 fondling her breasts. Such abuse later progressed to Defendant penetrating the vaginal
2 opening of A.S., his biological daughter, with his penis, and causing A.S. to perform fellatio
3 on him.

4 **SEXUAL ASSAULT / WITH A MINOR UNDER FOURTEEN YEARS OF**
5 **AGE / UNDER SIXTEEN YEARS OF AGE:**

- 6 - Penile Penetration of the Anal Opening (COUNT 8, 11, 16, 23, 28, 33, 38,
7 43)
8 - Penile Penetration of the Vaginal Opening (COUNTS 21, 26, 31, 36, 41)
9 - Fellatio (COUNTS 14, 19, 25, 30, 35, 40, 45)

10 The acts of sexual penetration were committed either against the will of A.S. or under
11 circumstances under which Defendant knew, or should have known, that A.S. was mentally
12 or physically incapable of resisting or understanding the nature of Defendant's conduct.

13 **LEWDNESS WITH A CHILD UNDER FOURTEEN YEARS OF AGE:**

- 14 - Fondle Anal Area with Penis (COUNT 9, 12, 17 in the alternative to
15 COUNT 8, 11, 16)
16 - Fondle Mouth with Penis (COUNT 15, 20 – in the alternative to COUNT
17 14, 19)
18 - Fondle Breasts (COUNT 10, 13, 18)

19 The acts of Lewdness with a Child Under the Age of 14 were clearly committed with
20 the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desires of the
21 Defendant or A.S.

22 **OPEN OR GROSS LEWDNESS:**

- 23 - Fondle Breasts (COUNT 24, 29, 34, 39, 44)

24 **INCEST:**

- 25 - Sexual Intercourse (COUNT 22, 27, 32, 37, 42)

26 PHT, Vol. III, pp. 17-27

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1 Contrary to Defendant's absurd assertions, A.S.'s provided explicit testimony with
2 regard to when and where the Defendant engaged in sexually abusing her. The crimes against
3 A.S. were committed on regular basis. LaPierre and its progeny contemplate that a victim can
4 testify as to when and where something occurred; and, how often it occurred. The State
5 will direct this Court's attention to the Statement of Facts above, as it relates to the Preliminary
6 Hearing testimony of A.S. (See pp. 18-21 of this document), wherein she described in detail
7 her ongoing victimization by this Defendant. As such, Counts 8-20 and 23-45 must stand.

8 **III. The State Presented Sufficient Evidence that Defendant Committed the Crimes**
9 **Further Alleged in Counts 107-114 Involving Victim E.C.**

10 On or between December 21, 2010 and June 30, 2014, E.C. was sexually touched by
11 Defendant on a weekly basis when she was approximately 11, 12, and 13 years of age, in the
12 5th, 6th and 7th grade. Defendant would regularly touch her breasts and vaginal area with his
13 hand, almost every weekend, when she visited her aunt Terrie, Defendant, and her cousins at
14 the Yellowstone residence.

15 **LEWDNESS WITH A CHILD UNDER FOURTEEN YEARS OF AGE:**

16 - Fondle Genital Area of E.C. (COUNT 107, 109, 111, 113)

17 - Fondle Breasts of E.C. (COUNT 108, 110, 112, 114)

18 The acts of Lewdness with a Child Under the Age of 14 were clearly committed with
19 the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desires of the
20 Defendant or A.S.

21 Again, LaPierre supra, and its progeny contemplate that a victim will testify as to when
22 and where something occurred; and, how often it occurred. The State will direct this Court's
23 attention to the Statement of Facts above, as it relates to the Preliminary Hearing testimony of
24 E.C. (See pp. 13-14 of this document), wherein she described in detail her ongoing
25 victimization by this Defendant. As such, Counts 107-114 must stand.

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1 **IV. The State Presented Sufficient Evidence that Defendant Committed the**
2 **Crimes of Sexual Assault with a Minor Under Fourteen Years of Age and**
3 **Lewdness with a Child Under the age of 14 as Further Alleged in Counts**
4 **91-92 of the Information, involving Victim R.S.**

5 Defendant's Petition challenges Counts 91-92 Sexual Assault With a Minor Under
6 Fourteen Years of Age or, in the alternative, Lewdness With a Child Under Fourteen Years of
7 Age.

8 R.S. testified that when he was 12 and 13 years old, in the seventh or eighth grade,
9 Defendant sexually abused him. The abuse happened more than once and it happened in R.S.'s
10 room, Defendant's room, the office, and the living room. PHT, Vol. III, pp. 21-22.

11 R.S. testified that Defendant made him remove his clothes and he would touch R.S.'s
12 behind where poop comes out, with his dick. R.S. described an incident that occurred when he
13 was 12 or 13, in his bedroom, and Defendant came in and made R.S. remove his clothes, by
14 yelling at him and grabbing him. R.S. was afraid Defendant would come after him and hurt
15 him if he did not do what Defendant said. R.S. got onto the bedroom floor and laid flat on his
16 stomach while Defendant inserted his penis into R.S.'s anal opening. **(COUNT 87 AND 88 –**
17 **R.S.'S BEDROOM).**

18 R.S. testified that when he was in junior high school, between 12 or 13 years of age, he
19 and Defendant were in the living room. R.S. had no pants or underwear on, nor did Defendant.
20 Defendant sat on the couch and had R.S. sit on his penis, inserting his penis into R.S.'s butt.
21 R.S. did not want to do that and Defendant forced him. **(COUNTS 89 AND 90-**
22 **LIVINGROOM).**

23 R.S. testified that Defendant put his penis inside R.S.'s butt on three occasions when
24 R.S. was in junior high school and 12 or 13 years old; once in R.S.'s bedroom; once in the
25 living room; and, once in Defendant's room. **(COUNTS 91 AND 92)** PHT, Vol. IV, pp. 34-
26 36.

27 Based upon the above, the State presented sufficient evidence that Defendant
28 committed the crimes as further alleged in Counts 91 and 92 of the Information.

//

1 **V. The State Presented Sufficient Evidence that Defendant Committed the**
2 **Crimes of Child Abuse and Neglect, Sexual Abuse or Exploitation as further**
3 **alleged in Counts 55, 57, 70, and 81 of the Information Involving Victims T.S.**
4 **and B.S.**

4 **CHILD ABUSE, NEGLECT, OR ENDANGERMENT – SEXUAL ABUSE**

5 - By Defendant causing B.S. to remove his clothes and get into the swimming
6 pool with Defendant and **Deborah Sena** who were nude and proceeded to have
7 sexual intercourse in the presence of B.S. **(COUNT 70).**

8 PHT, Vol. II, pp. 163-164

9 - Fondle Breast Area by Defendant causing and/or directing and/or
10 encouraging B.S. to touch/rub/fondle the breast(s) of **Terrie Sena. (COUNT**
11 **81).**

12 PHT, Vol. II, pp. 153-157.

13 - Fondle Breast Area by Defendant causing and/or directing and/or
14 encouraging B.S. to touch/rub/fondle the breast of **Terrie Sena. (COUNT 84).**

15 PHT, Vol. II, pp. 153-157.

16 The State presented sufficient evidence at the preliminary hearing that Defendant
17 directed and/or encouraged B.S. to fondle the breasts area of Terrie Sena, on two separate
18 occasions, when B.S. was 14 years of age; and, to be forced to watch Defendant and Deborah
19 Sena have sexual intercourse in the swimming pool, all of which constitute acts of Child
20 Abuse, Neglect or Endangerment – Sexual Abuse; and, which were committed under
21 circumstances in which B.S. was placed in a situation where he suffered unjustifiable physical
22 pain or mental suffering or placed in a situation where B.S. might have suffered unjustifiable
23 physical pain or mental suffering.

24 **CHILD ABUSE, NEGLECT, OR ENDANGERMENT – SEXUAL ABUSE:**

25 - T.S. and Deborah Sena wash each other in the shower while nude and in the
26 presence of Defendant **(COUNT 55)**

27 - T.S. caused to rub his penis between the legs and/or on the genital area of
28 Debora Sena in the presence of Defendant **(COUNT 57)**

1 PHT, Vol. II, pp. 110-114.

2 The State presented sufficient evidence of such offenses as detailed in the subject return
3 at pg. 16.

4 Defendant's Petition suggests that the referenced charges must be dismissed because
5 the State did not prove the element of physical pain and/or mental suffering. The State
6 disagrees with Defendant's assertion. NRS. 200.508(1) sets forth **alternative** means of
7 committing the offense. Under 200.508(1) the State has to prove that a person willfully caused
8 a child who is less than 18 years of age to suffer unjustifiable physical pain or mental suffering
9 as a result of abuse or neglect. Or, in the alternative the State has to prove that a person
10 willfully caused a child who is less than 18 years of age to be **placed in a situation where the**
11 **child may suffer physical pain or mental suffering** as the result of abuse or neglect.
12 Important to note is the fact that the fourth element of both alternatives still uses the language
13 "abuse or neglect," which is defined in NRS 200.508(4)(a). Under that specific part of the
14 statute there are five kinds of conduct that are considered to be "abuse and neglect": (1) non-
15 accidental physical injury, (2) non-accidental mental injury, (3) sexual abuse, (4) sexual
16 exploitation, and (5) negligent treatment or maltreatment. NRS 432B.100 defines "Sexual
17 Abuse" to include Open or Gross Lewdness per NRS 201.210 such as existed in the current
18 case.

19 Clearly, based upon the above referenced facts in the subject case, the State presented
20 sufficient evidence of Child Abuse, Neglect, or Endangerment – Sexual Abuse, as further
21 alleged in Counts 55, 57, 70 and 81 of the Information.

22 **VI. The State Presented Sufficient Evidence that Defendant Committed the**
23 **Crimes of Child Abuse and Neglect, Sexual Abuse or Exploitation as further**
24 **alleged in Counts 105 and 117 of the Information Involving Victims R.S. and**
T.G.

25 **CHILD ABUSE, NEGLECT OR ENDANGERMENT – SEXUAL**
26 **EXPLOITATION:**

27 - Defendant showed R.S. a sexually explicit video when he was under the age
28 of 18 years **(COUNT 105)**

1 When R.S. was 14 or 15 years of age, while in Defendant's office, a separate building
2 at the back of the house, Defendant showed R.S. a video on his computer, of Defendant and
3 Terrie Sena having sex in the back office. PHT, Vol. IV, pp. 29-31.

4 - Defendant showed T.G. sexually explicit video when she was under the age
5 of 18 years **(COUNT 117)**

6 When T.G. was 11 or 12 years of age, Defendant showed her a picture of her aunt,
7 M.C., giving Defendant oral sex. Defendant and T.G. were in the office when he showed her
8 the picture. PHT, Vol. II, pp. 89-91.

9 Under 200.508(1) the State has to prove that a person willfully caused a child who is
10 less than 18 years of age to suffer unjustifiable physical pain or mental suffering as a result of
11 abuse or neglect. Or, in the alternative the State has to prove that a person willfully caused a
12 child who is less than 18 years of age to be **placed in a situation where the child may suffer**
13 **physical pain or mental suffering** as the result of abuse or neglect. Important to note is the
14 fact that the fourth element of both alternatives still uses the language "abuse or neglect,"
15 which is defined in NRS 200.508(4)(a). Under that specific part of the statute there are five
16 kinds of conduct that are considered to be "abuse and neglect": (1) non-accidental physical
17 injury, (2) non-accidental mental injury, (3) sexual abuse, (4) **sexual exploitation**, and (5)
18 negligent treatment or maltreatment. NRS 432B.110 defines "Sexual Exploitation" to include
19 "... forcing, allowing or encouraging a child: ... [t]o view a pornographic film or literature .
20" such as existed in the current case.

21 Clearly, the State presented sufficient evidence of Child Abuse, Neglect, or
22 Endangerment – Sexual Abuse, as further alleged in Counts 105 and 117 of the Information.

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1 **VII. The State Presented Sufficient Evidence that Defendant Committed the**
2 **Crimes of Sexual Assault with a Minor Under Sixteen Years of Age; Child**
3 **Abuse, Neglect, or Endangerment - Sexual Abuse; Open or Gross Lewdness;**
4 **and, Sexual Assault as Further Alleged in Counts 54-58 and 61-68 of the**
5 **Information, Involving Victim T.S.**

6 **CHARGES INVOLVING VICTIM T.S.**

7 **1. Incident Involving Shower of T.S. and Debora Sena (COUNTS 54 –**
8 **58)**

9 When T.S. was approximately 14 or 15 years of age, on or between December 2, 2008
10 and December 1, 2010, T.S. was caused to take a shower with Debora Sena. He and Debora
11 Sena got into the shower naked and began to clean each other. Debora Sena performed fellatio
12 on T.S. and also caused his penis to be rubbed between her legs in the area of her vaginal
13 opening. Defendant was present throughout and directed some of the activity. A video
14 documenting some of the conduct was later found in Defendant's possession. PHT, Vol. II,
15 pp. 110-114

16 **SEXUAL ASSAULT / WITH MINOR UNDER SIXTEEN YEARS OF AGE:**

17 -Debora Sean performed Fellatio on T.S. in presence of Defendant
18 **(COUNT 54)**

19 **CHILD ABUSE, NEGLECT, OR ENDANGERMENT – SEXUAL ABUSE:**

20 - T.S. and Deborah Sena wash each other in the shower while nude and in the
21 presence of Defendant **(COUNT 55)**

22 - T.S. caused to rub his penis between the legs and/or on the genital area of
23 Debora Sena in the presence of Defendant **(COUNT 57)**

24 **OPEN OR GROSS LEWDNESS:**

25 - T.S. and Deborah Sena wash each other in the shower while nude and in the
26 presence of Defendant **(COUNT 56 – in the alternative to COUNT 55)**

27 - T.S. caused to rub his penis between the legs and/or on the genital area of
28 Debora Sena in the presence of Defendant **(COUNT 58 in the alternative to
COUNT 57)**

1 **2. Incident Involving Sexual Contact Between Debora Sena and T.S.**
2 **in a Residence Bedroom (COUNTS 61 – 69)**

3 On or between December 2, 2008 and December 1, 2012, T.S. was caused to have
4 sexual contact with Debora Sena in a bedroom within his residence. Defendant was present
5 throughout and directed some of the activity. A video documenting some of the conduct was
6 later found in Defendant's possession. PHT, Vol. I, pp. 222-226; PHT, Vol. II, pp. 117-122.

7 **SEXUAL ASSAULT / WITH MINOR UNDER SIXTEEN YEARS OF AGE:**

8 - Debora Sena Performing Fellatio on T.S. in the presence of Defendant
9 **(COUNT 61 alternative to 62; 67 alternative to 68)**

10 - Penile Penetration of Vaginal Opening of Debora Sena by T.S. in the
11 presence of Defendant **(COUNT 63 alternative to 64; 65 alternative to 66)**

12 Defendant's sole argument reference these counts are that the State failed to provide
13 sufficient evidence that Defendant aided and abetted Deborah Sena and/or directly committed
14 the crimes charged. The State has previously addressed the Conspiracy to Commit Sexual
15 Assault to include these charges. See State's Argument I, pp. 24-27, of the State's Return.

16 Defendant cites authority standing for the proposition that "mere presence" at the
17 location of a crime, on it's own, is not sufficient to establish culpability for a given crime.
18 However, it has long been the law that "[a]lthough mere presence cannot support an inference
19 that one is a party to an offense, . . . (citation ommitted), presence together with other
20 circumstances may do so." Winston v. Sheriff, 92 Nev. 616 (1976); See Also Walker v. State,
21 95 Nev. 321 (1979). Clearly, in the referenced incidents there is ample "other circumstances"
22 evidencing Defendant actually performing and/or aiding and abetting in the charged acts.
23 Such "other circumstances are detailed in the subject Return on pages 15-17. Some of the
24 highlights of Defendant's participation are detailed below.

25 First, in the case of **Counts 54 – 58**, it was Defendant who directed T.S. to do the
26 following:

- 27 - to take his clothes off;
28 - to get into the shower with his naked step-mother, Deborah Sena;

- for T.S. and Deborah Sena to clean each other's naked bodies; and
- for T.S. to place his penis around Deborah Sena's vaginal area.

It is also noted that Defendant is charged with using a camera to record such conduct in Count 59 of the subject Information.

In the case of **Counts 61 – 69**, it is Defendant who direct T.S. to do the following:

- to go into the bedroom where the sex acts occurred where Defendant was waiting already in the nude; and
- for T.S. to take all his clothes off as Deborah Sena also took all her clothes off.

Further, similar to the above referenced incident, Defendant is also charged with using a camera to record such conduct in Count 69 of the subject information. It is further noted that the video of such incident shows Defendant moving around the area of the sex acts and can be heard even giving some instruction as both Deborah Sena and T.S. appear to look to Defendant for direction from time to time. Finally, Defendant is observed in the video to engage in some sex acts with Deborah Sena at the same time other parts of Deborah Sena's body are enagaging in sex acts with T.S.

In support of his contention that Defendant was merely present for the above referenced sex acts, Defendant cites Walker v. State, 95 Nev. 321 (1979) and Rodriguez v. State, 107 Nev. 432 (1991). Neither case supports Defendant's position.

In Walker, an individual was robbed by multiple assailants in a casino. Walker, 95 Nev. At 322. That Court recognized the evidence aduced at trial to include evidence that the defendant was seen standing over the victim with no other person present in the area, the defendant had shoes similar to those described by the victim to be worn by one of the assailants, and the defednant was previously seen with another person who was seen leaving the casino just after the robbery and ran from a security officer following such other person. The Walker Court found that such evidence was sufficient to show that Defendant was more than merely present during the commission of the robbery. Id. The State submits that the evidence in the subject case supporting Defendant either directly committing the referenced crimes charged, or aiding and abetting in the commission of such crimes, is much more

1 substantial than the evidence found sufficient to defeat a mere presence claim in Walker.

2 In Rodriguez, the victim was kidnapped and sexually assaulted after leaving a bar.
3 Rodriguez, 107 Nev. At 433. The defendant also sexually assaulted the victim; however, the
4 defendant was charged with kidnapping the victim and also the fact that the victim was
5 sexually assaulted by two other individuals as well as himself. The Rodriguez Court reversed
6 the convictions of kidnapping and the sexual assault of the two other individuals noting that
7 there was no evidence adduced showing that the defendant was even present when the
8 kidnapping and other two rapes occurred and the victim made no reference to anyone acting
9 as a lookout. However, the defendant's conviction for the sexual assault which he personally
10 committed was affirmed. Rodriguez, 107 Nev. At 435. This is not at all similar to the facts
11 in the subject case. As such, Rodriguez is clearly inapposite to this case.

12 In this case, CHRISTOPHER SENA, was, in fact, engaged in directly committing the
13 referenced crimes charged along with DEBORAH SENA. Moreover, the State is entitled to
14 allege other theories of principle liability as was done in Walker, supra. The State has also
15 rightfully put CHRISTOPHER SENA on notice that he is being charged with assisting or
16 aiding and abetting DEBORAH SENA. The State contends that Defendant is either directly
17 or vicariously liable for the criminal conduct alleged in the referenced counts. As such, those
18 counts must stand.

19 **VIII. The State Presented Sufficient Evidence that Defendant Committed the**
20 **Crimes of Sexual Assault with a Minor Under Sixteen Years of Age and Incest as**
21 **Further Alleged in Counts 95-98 and 101-102 of the Information, Involving**
22 **Victim R.S.**

23 **1. Sexual Conduct with R.S. involving Terri Sena and Defendant in a**
24 **Residence Bedroom (COUNTS 95 – 98)**

25 Prior to R.S. turning 16 years of age, on or between June 14, 2010 and June 13, 2014,
26 R.S. was caused to have sexual contact with Terri Sena, the biological mother of R.S., in a
27 bedroom of his Las Vegas residence while Defendant was present. Terri Sena performed
28 fellatio of R.S. and R.S. was subsequently caused to penetrate the vaginal opening of Terri
Sena with his penis. Terri Sena then, subsequently, again performed fellatio on R.S.

Defendant videotaped the event and was later found in possession of such video. PHT, Vol. IV, pp. 41-46.

SEXUAL ASSAULT WITH MINOR UNDER SIXTEEN YEARS OF AGE:

- Terri Sean performed Fellatio on R.S. in presence of Defendant (**COUNT 95, 98**)

- R.S. caused to place his penis in the vaginal opening of Terri Sena in the presence of Defendant (**COUNT 96**)

The acts of sexual penetration were committed either against the will of R.S. or under circumstances under which Defendant knew, or should have known, that R.S. was mentally or physically incapable of resisting or understanding the nature of Defendant's conduct.

INCEST:

- Sexual Intercourse with Terri Sena in the presence of Defendant (**COUNT 97**)

2. Sexual Conduct with R.S. involving Terri Sena and Defendant in a Residence Office (COUNTS 101 - 102)

Prior to R.S. turning 16 years of age, on or between June 14, 2010 and June 13, 2014, R.S. was caused to have sexual contact with Terri Sena, the biological mother of R.S., in an office of his Las Vegas residence while Defendant was present. Terri Sena performed fellatio on R.S. and then performed fellatio on Defendant while R.S. watched. Terri Sena subsequently performed fellatio on R.S. again. Defendant videotaped the event and was later found in possession of such video. PHT, Vol. IV, pp.48-50.

SEXUAL ASSAULT WITH MINOR UNDER SIXTEEN YEARS OF AGE:

-Terri Sean performed Fellatio on R.S. in presence of Defendant (**COUNT 101, 102**)

Defendant's sole argument reference these counts are that the State failed to provide sufficient evidence that Defendant aided and abetted Terrie Sena and/or directly committed the crimes charged. The State has previously addressed the Conspiracy to Commit Sexual Assault to include these charges. See State's Argument I, pp. 24-27, of the State's Return.

1 Similar to his argument in VII, above, Defendant appears to contend that he was merely
2 present during the commission of the referenced crimes. Similar to the State's response above
3 in VIII, in the subject case there is ample circumstances evidencing Defenant's participation
4 in the subject crimes. Such circumstances are outlined in the subject State's return at pages
5 21 – 23. Some of the highlights of Defendant's participation are detailed below.

6 First, in the case of **Counts 95 – 98**, it was Defendant who did the following:

- 7 -observed as Terrie Sena began to take off the clothing of R.S. inside of
- 8 Defendant's bedroom;
- 9 -Defendant directed R.S. to lay on his back on the bed in such room;
- 10 -observed Terrie Sena remove her clothing and begin performing fellatio on R.S.
- 11 on such bed;
- 12 -told Terrie Sena to get on her back on the bed and directed R.S. to get on top of
- 13 her and put his penis in her vagina;
- 14 -Directed R.S. to get off of Terrie Sena and lay down on his back on the bed;
- 15 -Observed as Terrie Sena performed fellatio on R.S. as Defendant sexually
- 16 penetrated Terrie Sena from behind.

17 It is also noted that Defendant is charged with using a camera to record such conduct in Count
18 99 of the subject Information.

19 In the case of **Counts 101 – 102**, it is Defendant who did the following:

- 20 -Told R.S. to stand up while in his office and Terrie Sena removed the clothing
- 21 of R.S.;
- 22 -observed as Terrie Sena performed fellatio on R.S.;
- 23 -took his own pants down to allow Terrie Sena to perform fellatio on Defendant
- 24 as she alternated between Defendant and R.S.;
- 25 -After such incident, Defendant told R.S. that if he told anyone what had
- 26 happened that Terrie Sena would hate him and Defendant would make his life a
- 27 living hell.

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1 It is also noted that Defendant is charged with using a camera to record such conduct in Count
2 103 of the subject Information.

3 In this case, CHRISTOPHER SENA, was, in fact, engaged in directly committing the
4 referenced crimes charged along with TERRIE SENA. Moreover, the State is entitled to allege
5 other theories of principle liability as was done in Walker, *supra*. The State has also rightfully
6 put CHRISTOPHER SENA on notice that he is being charged with assisting or aiding and
7 abetting TERRIE SENA. The State contends that Defendant is either directly or vicariously
8 liable for the criminal conduct alleged in the referenced counts. As such, those counts must
9 stand.

10 **IX. The State Presented Sufficient Evidence that Defendant Committed the Crime of**
11 **Incest as Further Alleged in Count 97 of the Information**

12 As alleged in Counts 95 – 98, prior to R.S. turning 16 years of age, on or between June
13 14, 2010 and June 13, 2014, R.S. was caused to have sexual contact with Terri Sena, the
14 biological mother of R.S., in a bedroom of his Las Vegas residence while Defendant was
15 present. Terri Sena performed fellatio of R.S. and R.S. was subsequently caused to penetrate
16 the vaginal opening of Terri Sena with his penis. Terri Sena then, subsequently, again
17 performed fellatio on R.S. Defendant videotaped the event and was later found in possession
18 of such video. PHT, Vol. IV, pp. 41-46.

19 **INCEST:**

20 - Sexual Intercourse with Terri Sena in the presence of Defendant (**COUNT**
21 **97)**

22 R.S. is the biological son of Terrie Sena. PHT, Vol. IV, pp. 14-15. R.S. testified that
23 he went into the bedroom because his mom was in there. Terrie Sena was talking to R.S. and
24 began taking off his clothes. Defendant was in the hallway and watching what was happening.
25 Terrie Sena took all of R.S.'s clothes off and Defendant R.S. to lay on the bed, on his back.
26 Terrie Sena removed her clothes and began sucking on R.S.'s dick. PHT, Vol. IV, pp. 41-44.
27 Defendant instructed Terrie Sena to lay on her back and had R.S. get on top of her and insert
28 his dick into her private spot. (**COUNTS 96 AND 97**). PHT, Vol, IV, p. 45. Defendant had

1 R.S. get off of Terrie Sena and lay down on his back. Terrie Sena sucked R.S.'s dick while
2 Defendant got behind Terrie Sena. R.S. testified that he did not want to do any of those things
3 but he was forced to do it by Defendant. PHT, Vol. IV, p. 46.

4 In this case, CHRISTOPHER SENA, has, in fact, engaged in directly committing the
5 crimes charged along with TERRIE SENA. The evidence is clear he directed instructed and
6 caused R.S. to place his penis in the vagina of Terrie Sena, the mother of R.S. Moreover, the
7 State is entitled to allege other theories of principle liability as was done in Walker, *supra*.
8 The State has also rightfully put CHRISTOPHER SENA on notice that he is being charged
9 with assisting or aiding and abetting TERRIE SENA. The State contends that Defendant is
10 either directly or vicariously liable for the criminal conduct. This is clearly not an "absurd
11 result" as alleged by Defendant but rather a natural consequence of Defendant's actions and
12 the operation of law.

13 **X. The State presented Sufficient Evidence that Defendant Committed the Crimes**
14 **of Sexual Assault and Open or Gross Lewdness as Further Alleged in Counts 48-**
15 **51 Against Victim A.S.**

16 Defendant makes reference to **Counts 48 – 51** of the subject Information which are
17 actually part of a sexual event which includes **Counts 46 – 51** of the subject Information. The
18 entire sexual event is described in the subject Return at pages 20-21. The highlights of
19 Defendant's conduct in such event are described as follows:

20 -When A.S. came home from high school one day, during the last few months
21 of her senior year, Defendant brought both Deborah Sena and A.S. into the same
22 room at the residence they shared;

23 -Defendant told A.S. to get naked which she did;

24 -Defendant told both A.S. and Deborah Sena to play with each other by rubbing
25 each other's breasts and vaginal areas with their hands which both of them did
26 in a manner in which A.S. digitally penetrated the vaginal opening of Deborah
27 Sena (**Counts 48, 49**);

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- 1 - Defendant caused Deborah Sena to get on top of A.S. while Defendant inserted
2 his penis in the vagina of A.S. (**Counts 46, 47**);
- 3 - While Deborah Sena was still on top of A.S. and each of their nipples were
4 touching each other, Defendant removed his penis from the vagina of A.S. and
5 placed it in the vagina or anus of Deborah Sena;
- 6 - Defendant caused A.S. to fondle the breasts of Deborah Sena (**Count 50**)
- 7 - Defendant caused Deborah Sena to get on her back as he penetrated her while
8 telling A.S. to play with herself as Defendant watched which A.S. did in the
9 course of which she fondled her own vaginal area with her hand (**Count 51**);
- 10 - A.S. was clear that she did not want to perform the acts Defendant directed and
11 didn't initially disclose the conduct because she was afraid of what might happen
12 because of Defendant's threats of what would happen if she told which conduct
13 Defendant is currently charged with (**Count 53**)

14 The referenced counts are detailed as follows:

15 **SEXUAL ASSAULT / WITH MINOR UNDER SIXTEEN YEARS OF AGE:**

- 16 - Penile Penetration of Vaginal Opening of A.S. by Defendant in the Presence
17 of Debora Sena (**COUNT 46**)
- 18 - Digital Penetration of the Vaginal Opening of Deborah Sena by A.S. in the
19 presence of Defendant (**COUNT 48**)

20 The acts of sexual penetration were committed either against the will of A.S. or under
21 circumstances under which Defendant knew, or should have known, that A.S. was mentally
22 or physically incapable of resisting or understanding the nature of Defendant's conduct.

23 **INCEST:**

- 24 - Sexual Intercourse between Defendant and A.S. in presence of Debora Sena
25 (**COUNT 47**)

26 **OPEN OR GROSS LEWDNESS:**

- 27 - Deborah Sena Fondled the Breast / Genital Area of A.S. in the presence of
28 Defendant (**COUNT 49**)

1 - A.S. Fondled the Breast of Debora Sena in the Presence of Defendant
2 **(COUNT 50)**

3 - A.S. Fondled Her Own Vaginal Area in the Presence of Defendant and
4 Debora Sena **(COUNT 51)**

5 Defendant appears to challenge **Counts 48-51** contending that Defendant was merely
6 present while A.S. and Deborah Sena had consensual sex. The above facts in no way support
7 this contention. In this case, CHRISTOPHER SENA, has, in fact, engaged in directly
8 committing the crimes charged along with DEBORAH SENA. Moreover, the State is entitled
9 to allege other theories of principle liability as was done in Walker, *supra*. The State has also
10 rightfully put CHRISTOPHER SENA on notice that he is being charged with assisting or
11 aiding and abetting DEBORAH SENA. The State contends that Defendant is either directly
12 or vicariously liable for the criminal conduct.

13 **CONCLUSION**

14 Based on the foregoing arguments, the State respectfully requests that This Honorable
15 Court DENY Defendant's Petition for Writ of Habeas Corpus.

16 DATED this 10th day of May, 2016.

17 Respectfully submitted,

18 STEVEN B. WOLFSON
19 Clark County District Attorney
Nevada Bar # 001565

20
21 BY /s/ JAMES R. SWEETIN
22 JAMES R. SWEETIN
23 Chief Deputy District Attorney
Nevada Bar #005144

24
25 BY /s/ MARY KAY HOLTHUS
26 MARY KAY HOLTHUS
27 Chief Deputy District Attorney
28 Nevada Bar #003814

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CERTIFICATE OF SERVICE

I hereby certify that service of the above and foregoing was made this 10th day of MAY
2016, to:

VIOLET RADOSTA, DPD
harrolah@ClarkCountyNV.gov

BY /s/ HOWARD CONRAD
Secretary for the District Attorney's Office
Special Victims Unit

hjc/SVU

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CHRISTOPHER SENA,) No. 79036
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 Appellant,)
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 v.)
)
 THE STATE OF NEVADA,)
)
 Respondent.)
)

DARIN IMLAY Clark County Public Defender 309 South Third Street Las Vegas, Nevada 89155-2610 Attorney for Appellant	STEVE WOLFSON Clark County District Attorney 200 Lewis Avenue, 3 rd Floor Las Vegas, Nevada 89155 AARON FORD Attorney General 100 North Carson Street Carson City, Nevada 89701-4717 (702) 687-3538 Counsel for Respondent
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I hereby certify that this document was filed electronically with the Nevada Supreme Court 20 day of May, 2020. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

I further certify that I served a copy of this document by mailing a true and correct copy thereof, postage pre-paid, addressed to:

BY /s/ Carrie Connolly
Employee, Clark County Public Defender's Office